

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 UNITED STATES OF AMERICA,

4 v.

23 CR 181 (RA)

5 DARIUS A. PADUCH,

6 Defendant.

Trial

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7
8 New York, N.Y.
April 26, 2024
9 9:55 a.m.

10 Before:

11 HON. RONNIE ABRAMS,

12
13 District Judge
-and a jury-

14 APPEARANCES

15 DAMIAN WILLIAMS

United States Attorney for the
Southern District of New York

16 BY: MARGUERITE COLSON

ELIZABETH A. ESPINOSA

17 JUN XIANG

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18 Assistant United States Attorneys

19 BALDASSARE & MARA, LLC

Attorneys for Defendant

20 BY: MICHAEL BALDASSARE

JEFFREY HAWRILUK

1 (Trial resumed; jury not present)

2 THE COURT: Good morning. A few quick things to talk
3 about, and then we will bring the witness back in.

4 First, I think that we should redact some of the
5 sidebars with prospective jurors where they talked about sexual
6 history of themselves or their family members or their medical
7 history so that it's not in the public record together with
8 their name.

9 Does anyone have any objection to that?

10 MR. XIANG: No objection.

11 MR. BALDASSARE: No objection.

12 THE COURT: That is consistent with the law, and I
13 have an order to that effect citing the *Maxwell* case. I think
14 there is a lot of law supporting the notion that you can
15 protect your privacy, at least for very sensitive issues.

16 MR. BALDASSARE: Judge, we are happy to leave it to
17 the Court's discretion to do it. We will do the work.
18 Whatever you want.

19 THE COURT: If it's OK. What I will do is ask you
20 both just to agree on them and just send the proposals. If
21 they are fine -- you can do it over the weekend. In the
22 meantime, what I am going to do is I am going to seal the *voir*
23 *dire* transcripts, but just temporarily, and hopefully we can
24 have the redacted versions up by Monday.

25 MR. XIANG: Understood, your Honor.

1 THE COURT: I am going to instruct the court reporter
2 not have to have the *voir dire* be on the docket until we redact
3 this very sensitive information about the prospective jurors,
4 given that their names are public.

5 MR. BALDASSARE: Judge, we have not been ordering
6 dailies or the *voir dire*. I'm happy to either take them from
7 the government, take a crack or look at what the government
8 does. I just don't have them. I know we want to expedite. If
9 they want to do it, send it to me. I can't imagine there is
10 going to be a dispute.

11 THE COURT: I can't imagine there is going to be a
12 dispute.

13 MR. XIANG: We will figure it out.

14 THE COURT: Just get back to me Monday, if you can.
15 If not, I know you're busy on other things. Just as soon as
16 you can.

17 Second, I understand that there may be a sketch
18 artist.

19 Hi. How are you. It's good to see you. I am going
20 to ask you to -- technically direct you not to portray the
21 victims. They are testifying under pseudonyms about very
22 sensitive information, so I am going to ask you not to portray
23 the patients' faces in your sketches.

24 SKETCH ARTIST: May I ask a question. Are we allowed
25 to have no face but hair or glasses this person has?

1 THE COURT: I think that's OK. As long as the case is
2 not at all identifiable.

3 SKETCH ARTIST: Thank you very much.

4 MR. XIANG: Fine with the government.

5 THE COURT: Thank you for that. I appreciate your
6 cooperation.

7 Next, I got the government's letter with respect to
8 the defendant's opening statement.

9 I'm not inclined to give a limiting instruction
10 specifically critiquing the defense opening statement. But
11 what I was inclined to do is say something to the effect of, as
12 I said to you yesterday, opening statements are not evidence,
13 nor argument. To the extent that any comments were made
14 yesterday that conflict with the legal instructions I have
15 already given you during *voir dire* or I give you in the future,
16 you must follow my instructions on the law. And then, because
17 we did actually tell the jury during the *voir dire* process
18 that -- we gave a specific instruction about investigative
19 techniques, so I feel like they already know that law.

20 With respect to the lawyer's presence, I am not going
21 to raise it now. But if that argument is made again or that
22 insinuation during cross-examination that there was something
23 improper about having an individual's lawyer present with them,
24 then I'll give a limiting instruction at that point in time.

25 MR. BALDASSARE: Judge, just on that issue, I don't

1 think -- I don't have the transcript, and if I did I would
2 certainly do it differently on cross -- I don't think it's
3 improper to have a lawyer there, and I don't think I argued
4 that.

5 I think my point is that having your money lawyer
6 sitting there with them goes to bias. I just think it does. I
7 think it goes to the process. I think that the government does
8 its investigations the way it wants. I said more times than
9 I've ever said before yesterday that what the government did
10 was legal, the searches were legal, how they did it was legal.

11 But I do think the jury has a right to know that the
12 lawyers are sitting there, and I think that -- certainly I
13 think I'm allowed to argue it in closing. Maybe we are talking
14 past each other, but I do think it's OK and permissible for me
15 to ask who was there. And I guess we can talking about
16 closings at the time, but I'm not saying it's improper for
17 anybody to have a lawyer ever, and we discussed that when we
18 talked about the appointed lawyer for the person who might have
19 immunity.

20 But I do think that, in this instance, given that this
21 was not just a personal lawyer who was there, these are
22 interested lawyers, they are there, I think it's appropriate to
23 ask about it, not to say I am not going to ask these witnesses,
24 don't you think you should have gone without your lawyer or
25 anything like that. I think the jury should know it. I think

1 it's true.

2 And I think that in closing, if I do my
3 cross-examinations right, I should be able to argue that it
4 goes to the manner in which the government conducted its
5 investigation.

6 MS. ESPINOSA: Your Honor, if I could just respond
7 briefly to that.

8 The government excerpted relevant portions of the
9 transcript in its letter to the extent defense counsel wishes
10 to refer to that. But the clear insinuation was that having
11 the lawyers, the money lawyers, as he repeatedly referred to
12 them, in the room, was somehow -- the atmospherics of his
13 statements indicated that it was somehow improper or unusual.
14 As your Honor knows, obviously, a witness is entitled to have
15 counsel if they wish to. And because these were represented
16 parties in connection with a matter that we were investigating,
17 it was in fact improper for us to not have the attorneys there.

18 So the insinuation that creating the false idea that
19 the witnesses were somehow doing something wrong by choosing to
20 have their lawyer in the room is simply just improper.

21 THE COURT: Would anyone object to my saying
22 something -- and we can talk about when this would be
23 appropriate, if it's on cross or some later time, but saying,
24 look, there is nothing improper in and of itself for an
25 individual to have his lawyer present when meeting with the

1 government.

2 MR. BALDASSARE: Judge, I think that that's
3 something -- I don't think it should happen anywhere near
4 before closings. I understand that the government thinks that
5 how I said it and how I did it made it seem improper. My point
6 is every single thing I said was, this is -- and I knew -- I
7 don't think I said it, but I know that you instructed them and
8 are going to instruct them that no particular investigative
9 tools are necessary.

10 But here is the problem. The government wants the
11 people -- wants the lawyers, the third-party lawyers, to be a
12 shield when they want. So, for example, when I want to talk
13 about a defense investigator who goes to the lawyers, somehow
14 they are going to argue that, I don't know, that the people are
15 going to either say, I don't know, I can't -- we know I can't
16 ask those witnesses, did your lawyer tell you we asked for an
17 interview, right. So they have lawyers. It's appropriate for
18 them to have lawyers.

19 Are we also going to tell the jury that I can't
20 contact the people directly and I have to go through these
21 lawyers? And these lawyers said no. And that these lawyers
22 said no. One of the lawyers who represents about 150 people
23 said no in a minute and a half. How do I get that to the jury?
24 I am not saying it's wrong to have lawyers. I'm saying, it's a
25 relevant fact. I don't think I said the government shouldn't

1 have them there. I think it goes to how they conducted their
2 investigation, and they had to go through their lawyers. I get
3 it. I didn't say they didn't.

4 MS. ESPINOSA: But the implication is clearly that by
5 going to their lawyers we were creating this inappropriate
6 situation where they had their biased lawyers there. The
7 government ethically cannot speak to a represented party
8 without their lawyer there. So the implication that we had any
9 other option on how to proceed is what's problematic here.
10 Because if those witnesses are a represented party, we, as the
11 prosecutors, cannot speak to them without their lawyer present.

12 MR. BALDASSARE: I don't think the implication is that
13 it's inappropriate. I think the implication is that their
14 lawyers, their money lawyers, were there. I think it's
15 appropriate. I think it goes to bias and I think at some
16 point, Judge, we have to tell this jury how this investigation
17 was conducted. The government wants to conduct the
18 investigations they want to do it, OK, but we have to tell the
19 jury how it was done.

20 If before closings or if I make some huge mistake and
21 ask a question, I think I am entitled to ask who was there.
22 But I don't think that these alleged victims, the former
23 patients, are the kind of witnesses who I am going to delve
24 into specific nuances of legal arguments or whether they are
25 supposed to be there. I agree. They have to go through the

1 lawyers.

2 THE COURT: If you were to ask a question and the
3 government were to make an objection, do you have a problem
4 with my instructing the jury, look, there is nothing improper
5 in and of itself of having an individual having his lawyer
6 present when meeting with the government?

7 MR. BALDASSARE: I think it depends on the question.
8 I think if I ask, were the lawyers representing you in the
9 civil lawsuit present with you, I don't think that's an
10 objectionable question. It's a fact. It's true. The
11 government can get up. They can do whatever they want on
12 recross.

13 And we keep forgetting, there are closings. If
14 everything I'm doing is so far afield, they can savage me in
15 their closing and their rebuttal. They get two shots. I just
16 don't think it's appropriate in the course of the trial. As I
17 tell this jury the truth about the fact that they were there
18 and nothing further, I think I'm allowed to ask --

19 THE COURT: I am going to let you get out that they
20 were there. I am going to let you make the bias arguments that
21 you want to make. But I also think it's important for the jury
22 to know, there is nothing improper about having an individual
23 witness having his lawyer present during a meeting with the
24 government. There is nothing improper about that at all.

25 MR. BALDASSARE: I agree, Judge.

1 THE COURT: I'm just giving you advanced notice that,
2 given that you agree that that is the law, that if there is a
3 question that in my view suggests that that was improper in
4 some way, I am just going to say that, and you can still make
5 all the arguments you want to make.

6 MR. BALDASSARE: You are going to say at with every
7 witness?

8 THE COURT: Not every witness. I'll say it once. I
9 don't think I need it to say it every time it's said, but I
10 will make that clear to the jury.

11 MR. BALDASSARE: I'll do my best to fashion the cross
12 in a way that doesn't draw an objection, and we will see what
13 happens.

14 MR. XIANG: While we are on this subject, your Honor,
15 I think arguments were made in the defense opening that I think
16 reraise an issue that we previously discussed about
17 cross-examination that could possibly bear on the
18 attorney-client privilege as would exist between the victim
19 witnesses and their civil attorneys.

20 I think the previous kind of version of the issue that
21 had arisen was in connection with this false-memories theory
22 and the defense's ability to elicit whether or not anyone else
23 gave facts to these victim witnesses. And I think we all agree
24 that the government thought, in consultation with the civil
25 attorneys, that there were ways to phrase that question to get

1 the answer without calling for privileged information.

2 However, the defense opening yesterday included themes
3 of, there were these two firms and they heard about changes in
4 the law and they got together and there was a media blitz and
5 this was all part of a plan that they hatched together in
6 connection with their clients in concert, as the government
7 understood the opening, with the government.

8 So the government is very much concerned about
9 cross-examination questions outside the kind of narrow scope we
10 had agreed to about facts that would seek to advance that
11 theme, and the government is particularly concerned because
12 ordinarily what would happen is the government would object to
13 questions that improperly call for privilege.

14 Our concern is that that kind of plays into what the
15 defense wants, which is the optics of asking that question and
16 the government objecting and feeding into this notion that
17 there is some sort of cabal between the government and the
18 plaintiff's firms. So the government just wants to flag that
19 issue for the Court. There is an ongoing objection to the
20 extent that those questions are asked. In particular, we have
21 no objection to questions that ask of the witness, are you
22 doing this for the money? Have you sued the defendant or the
23 hospitals? To your understanding, is there financial gain? To
24 your understanding, is there some connection between this
25 criminal case and what happens here and the civil case? We

1 have zero objection to any of those questions.

2 As my colleague stated, and I think your Honor has
3 already ruled, we have no objection to fact questions. When
4 you met with the government, were attorneys there, etc. But
5 some of the themes that were suggested in the defense opening
6 about, well, the firms got together and got together with their
7 clients and did this, that, and the other, we don't see how
8 those types of themes can possibly be elicited on
9 cross-examination without calling for privileged information.

10 MR. BALDASSARE: Couple of things, Judge. I don't
11 think I said that the firms got together with the clients. I
12 think that the firm -- what I said was that the firms saw an
13 opportunity. I think that is true.

14 Number two, I think that the government would agree,
15 and I hope the Court would agree, that I've been very
16 reasonable about being protective of quite a bit of things.
17 I'm not looking to bait them. That's not how I try cases, to
18 stand up every two seconds and look bad. It's just not me.

19 What I would say is -- and I'm also being very careful
20 because the truth is, I don't want to keep losing objections in
21 front of the jury either. As bad as that might look for them,
22 I'm being very careful.

23 I will say that there are things to do with the
24 lawyers and the interactions with the lawyers that are not
25 privileged. I can tell you that there is at least one witness

1 who, while sitting with the government, said, my lawyer told me
2 to do this, and my lawyer said this. I think that's fair game.
3 That privilege is waived.

4 By the way, I'm not even making the argument that they
5 don't even hold the privilege. On other cases I would. And
6 somebody can't stand up from the gallery, but I am also
7 respectful of the fact that the former patients in this case,
8 certainly the one on the stand now and others, are not in a
9 position to do that, and I think, under the ethics rules, I
10 shouldn't take advantage of that. But there are things that in
11 at least one instance an alleged victim, a former patient,
12 said, well, my lawyer said that I should do this and that, and
13 it's material. Maybe that person shouldn't have said that.

14 THE COURT: Let's talk further before that witness,
15 just so we don't keep the jury waiting, if you want to talk
16 about that, and I'll see if the government has any objection to
17 that.

18 It does seem like, based on what you said, that the
19 privilege was waived in that situation, but I do want you to be
20 sensitive to the privilege issues with these individuals.

21 MR. XIANG: Thank you, your Honor.

22 THE COURT: Can we bring the jury in if they are
23 ready?

24 Do you want to bring the witness back on the stand?

25 MR. XIANG: Yes, your Honor.

1 THE COURT: Thanks.

2 When can the government respond to the *Touhy* motion?

3 MS. QIAN: Your Honor, we can address it now, or we
4 can wait until the end of the trial day.

5 THE COURT: Why don't we wait until the end of the
6 trial day. Thank you.

7 (Jury present)

8 THE COURT: Good morning, everyone. I am sorry for
9 keeping you late. I assure you that we are working here, and
10 we very much value your time.

11 Everyone can be seated.

12 I am going to remind the witness he is still under
13 oath.

14 You may proceed.

15 MR. XIANG: Thank you, your Honor.

16 SAM LENOX, resumed.

17 DIRECT EXAMINATION (cont'd)

18 BY MR. XIANG:

19 Q. Good morning, Mr. Lenox.

20 A. Good morning.

21 Q. I believe when we left off yesterday you were testifying
22 about your discussions with the defendant regarding an
23 internship.

24 Do you recall that?

25 A. Yes, sir.

1 Q. Now, did there come a time when you in fact interned for
2 the defendant?

3 A. Can you repeat that for me, please.

4 Q. Did you intern for the defendant?

5 A. Yes, sir.

6 Q. Was that at the same hospital that you had seen him at as a
7 patient?

8 A. Yes, sir. Weill Cornell Medical Center.

9 Q. What were your hours during the internship?

10 A. Usually, 9 to 4, 9 to 3, something like that.

11 Q. Were there other interns in that internship program?

12 A. No. Just me.

13 Q. When you say there were no other interns, are you referring
14 to just the department, or are you referring to the hospital
15 overall?

16 A. In like my program, or at least under Dr. Paduch's
17 mentorship with that, there were other, I guess, interns doing
18 like other things. Nothing like urology. I met a few people
19 around lunch who seemed to be like in college.

20 Q. Can you describe to the jury a little bit your day to day
21 during the internship?

22 A. Yeah. I guess I would get there, and some days I would
23 work in the lab with the lab assistant, Alex. Most of the days
24 I would shadow Dr. Paduch and follow him around.

25 Q. When you shadowed the defendant and followed him around,

1 did you ever see the defendant's physical examinations of other
2 patients?

3 A. Yes.

4 Q. Did any aspect of those examinations make you
5 uncomfortable?

6 A. Yes. One in particular.

7 Q. What was that?

8 A. There was a gentleman who was in there, I guess, for
9 erectile dysfunction. When I went in there, from what I can
10 remember, Dr. Paduch had him put on what type of porn that he
11 liked. For me it stands out because it was a little extra
12 uncomfortable for me because I have never been exposed to
13 homosexual porn. That was like my first time seeing it. So it
14 was playing on the screen. I just remember being very
15 uncomfortable and either the patient was masturbating him or
16 Dr. Paduch was masturbating him. I don't recall that detail.
17 But I remember when it was time for the patient to ejaculate or
18 finish the deed, the patient looked at me and said, can we get
19 the kid out of here, please. I can't do this with the kid in
20 here. Then I was excused.

21 Q. Did you ever express to the defendant your discomfort with
22 viewing that experience?

23 A. Yes. The next day, or maybe not the next day or a couple
24 of days, I am not sure, but it was very uncomfortable for me.
25 So I did address it with Dr. Paduch. I said that seeing porn,

1 like homosexual porn, it felt very uncomfortable to me. And
2 Dr. Paduch brought up that, you know, being gay is a very
3 normal thing, and that when he was in the army in Poland that
4 they used to do circle jerks. I'm sorry about the terminology.
5 That's what sticks out in my head. When he was in the Polish
6 army, they did circle jerks, and that is when he told me that
7 he had a husband named Robert. But he did, at the end of it,
8 after explaining that to me, said that he understood what I was
9 saying, and I wasn't exposed to that type of pornography after
10 that.

11 Q. A few follow-up questions, Mr. Lenox.

12 When the defendant said that he had previously done
13 circle jerks, did he explain what that term meant?

14 A. I don't recall, actually. I was in, I guess, high school
15 when I did the internship, so I'm sure that I had heard the
16 term before, so I don't think that I would have asked for too
17 much of an explanation.

18 Q. What was your understanding of what the term meant?

19 A. It's uncomfortable. If you look on the urban dictionary,
20 it's when you got a bunch of guys in a circle all masturbating
21 each other.

22 Q. You testified just now that you believe you learned during
23 this conversation that the defendant had a husband.

24 Was that your testimony?

25 A. Yes, sir.

1 Q. Prior to this point, did you have an understanding as to
2 the defendant's personal life or marital status?

3 A. Before he had brought up that he had a wife and kids, so I
4 assumed that it was still the case until roughly that point was
5 the first time that I learned that he had a husband.

6 Q. I believe you testified yesterday, Mr. Lenox, about an
7 occasion during the internship when the defendant masturbated
8 you, was that right?

9 A. Yes, sir.

10 Q. Can you remind the jury the circumstances under which that
11 happened.

12 A. Yes. I was still dealing with my medical issues. I had
13 erectile dysfunction when I was like 15, since I was 15, and I
14 hadn't been helped or gotten any better since seeing Dr.
15 Paduch.

16 At the internship, I think we were in his office, and
17 I asked: Hey, do we have any further ideas on what could be
18 like my issue? And I brought up a couple of things that I
19 guess -- I was like, hey, could it be this problem? Why am I
20 having my issues?

21 That's when he said: Come with me. And he took -- we
22 walked out of his office, and then he spoke to Jessica, who was
23 the nurse practitioner for the office. I think she was the
24 nurse practitioner. And he asked: Is there a room available?
25 She said yes.

1 So we went into an examination room, and he asked me
2 to lower my pants, which I did, and he put his hand around my
3 penis and started to masturbate me. I guess, because there was
4 physical stimulation when I started to get a little bit of
5 blood into my penis, he said, see, you don't have a problem.
6 And then he left and I followed suit, and I left the
7 examination room.

8 Q. To your knowledge, was this interaction with you during
9 your internship documented in your medical files in any way?

10 A. No, sir.

11 Q. Mr. Lenox, I want to change topics for a moment.

12 During the time that the defendant was your urologist,
13 how did you communicate with him?

14 A. I guess by text and by email, but more by text. I only
15 emailed him a couple of times.

16 Q. How was it that you were able to text message him? Who
17 gave you his number?

18 A. Dr. Paduch gave me his number early on.

19 MR. XIANG: Mr. Glogoff, if we could please pull up
20 just for the witness and the party what's been marked for
21 identification as Government Exhibit 401.

22 Q. Mr. Lenox, do you recognize this document?

23 A. Yes, sir.

24 Q. How do you recognize it?

25 A. It's a text message, text message interaction between me

1 and Dr. Paduch.

2 Q. Even though only the first page is on the screen, prior to
3 your testimony today, have you had a chance to review every
4 page of this document?

5 A. I believe so.

6 Q. From whose cell phone do these text messages come?

7 A. Yes. I'm the blue and Dr. Paduch would be the clear
8 messages, so from my cell phone to Dr. Paduch's.

9 Q. Understood. But these actual screenshots, whose device
10 would they have been pulled off of?

11 A. My phone. I'm sorry.

12 MR. XIANG: Your Honor, the government offers GX-401.

13 THE COURT: Any objection?

14 MR. BALDASSARE: No.

15 THE COURT: It will be admitted.

16 (Government Exhibit 401 received in evidence)

17 THE COURT: This is not sealed.

18 MR. XIANG: This is not sealed, your Honor.

19 THE COURT: Thank you.

20 MR. XIANG: And I believe there is a stipulation
21 between the parties that the only redactions on this document
22 are of the witness' real name.

23 THE COURT: I can see. Thank you.

24 MR. XIANG: If we could publish that please, Mr.
25 Glogoff.

1 Q. Mr. Lenox, now that the jury can see the exhibit, can you
2 explain a little bit again whose message bubbles are on the
3 right-hand side versus the left-hand side?

4 A. Mine would be on the right, the blue messages, and Dr.
5 Paduch's would be on the left with the clear messages.

6 Q. Drawing your attention, for example, to the first message
7 where at the bottom of the message it says, I had high hopes,
8 FO, and then underneath that it says, view all, having reviewed
9 the document, are there some messages like this, where the text
10 is cut off and there is a view all at the bottom?

11 A. Yes, sir.

12 Q. And what does the view all indicate?

13 A. It indicates that there is more to the message and it had
14 been cut off.

15 Q. Now, let's focus your attention on the message on the very
16 first page.

17 Before we do that, let me ask a preliminary question.

18 To the best of your recollection, are the messages in
19 this exhibit all of the messages that you have ever had with
20 the defendant, or, to your understanding, were there messages
21 that preceded what's in this exhibit?

22 A. There were definitionally messages that preceded this text
23 right here, yeah.

24 Q. Focusing your attention on the text that's blown up, what's
25 the date of this text?

1 A. August 21, 2016.

2 Q. As of that date, how old were you?

3 A. I believe I was 17.

4 Q. If I could please ask you to read this first message. You
5 can stop essentially where it gets cut off. I will read the
6 messages on the left. OK?

7 A. OK.

8 "Hey, Doc. Sorry to bother you on your day off.
9 Quick question. I tried having sex last night with the girl I
10 told you about, and I had a really hard time getting an
11 erection and keeping it. I wasn't able to penetrate but made
12 sure she enjoyed herself. I'm really struggling with this. I
13 had high hopes and for, I'm assuming, and there is view all."

14 Q. "Did you take Cialis or injection? Redacted. Last time
15 you were in my office you got semi-erection because I was
16 helping you to relax. Don't stress about it. You think too
17 much about pleasuring your girlfriend rather than telling her
18 what to do so you get hard. Have her blow you or jerk you off
19 and, too be honest, maybe your BO -- it's cut off with the view
20 all."

21 Next message: "Start searching your balls, LOL.
22 Nothing missed. Scratching your balls for a change, I mean,
23 smiley face. You have big penis, my friend, and, yes, vaginas
24 are tight, so don't worry."

25 Let's pause there for a moment.

1 In the message at the top of this page where the
2 defendant texted you, "you were in my office, you got
3 semi-erection, because I was helping you to relax," did you
4 have an understanding of what he was referring to there?

5 A. Yeah. Sitting here right now, I don't remember the exact
6 time, what exact instance he's referring to, because there were
7 a few times that I was masturbated by the defendant. But he's
8 referring to either one of the erection practices or an
9 ultrasound or whenever he had masturbated me in his office.

10 (Continued on next page)

1 BY MR. XIANG:

2 Q. Directing your attention to the message from the defendant
3 at the bottom of the screen where he writes to you, You have
4 big penis my friend.

5 Did the defendant, apart from this message, comment
6 about your anatomy?

7 A. Yeah. At least from my recollection, on the first
8 appointment, just similar sort of things, that -- it's
9 embarrassing -- but that I had a big penis.

10 Q. And understanding that it's embarrassing, do you recall,
11 apart from this message, the nature of those types of remarks?

12 A. I just remember one time in the office, I guess it was.
13 Like -- not in his office, sorry -- in the examination room.
14 During one of the, um, physical exams.

15 I don't remember the exact context. At one point I
16 had, you know, if you have an erection with my pants down, um,
17 yeah.

18 MR. XIANG: Mr. Glogoff, if we can please jump ahead
19 to page six of this exhibit.

20 Q. Mr. Lenox, I want to focus on the set of messages beginning
21 on Thursday, September 29, 2016.

22 Do you see those?

23 A. Yes, sir.

24 Q. And, again, if I could ask that you please read your
25 messages which are in blue, and I will read the clear messages

1 on the left which are clear, and I'll indicate where we can
2 stop.

3 OK?

4 A. Yes, sir.

5 I said, Hi, Doc. Can I call you today or tomorrow? I
6 need to talk to you about the next step with my ED -- which
7 stood for erectile dysfunction -- I want this solved. Saw
8 Dr. Steixner today and he sucks.

9 Q. Really. Winky face. I was hurt that you would cheat on
10 my --

11 MR. XIANG: If we can go to the next page --

12 Q. -- I was hurt that you would cheat on me with someone else.
13 Smiley face.

14 No feelings?? Didn't you let him touch your penis:
15 (that's real grounds for divorce). LAMOF. Focus on your
16 studies and call me tomorrow evening. I am busy tonight. If
17 you stop worrying about your weiner so much I may take you
18 back. Winky face.

19 A. I'm sorry. He actually didn't. He had a super hot
20 Dominican ultrasound tech do the entire test, he injected me
21 and left the room.

22 MR. XIANG: Mr. Glogoff, if we can go to the next page
23 which picks up.

24 Q. WTF.

25 A. Exactly. Guy was no help whatsoever.

1 MR. XIANG: We can stop there.

2 Q. Focusing on that set of messages, who was Dr. Steixner?

3 A. He was a urologist that I saw.

4 Q. And, to your memory, when this ultrasound was performed by
5 Dr. Steixner, did Dr. Steixner masturbate you in the course of
6 that ultrasound?

7 A. No.

8 MR. XIANG: So if we can please leave that up,
9 Mr. Glogoff.

10 Q. The set of messages --

11 MR. XIANG: Actually, if we can go to the previous
12 page.

13 Q. The set of messages after you tell the defendant he
14 injected me and left the room, and the defendant responded
15 WTF --

16 MR. XIANG: I'm sorry, Mr. Glogoff, now the next page.

17 Q. -- and you responded, exactly. Guy was no help whatsoever.

18 What was your understanding of why the defendant
19 responded WTF and what did you mean by, Guy was no help
20 whatsoever?

21 A. Yeah. I was under the impression that, um, that a doctor
22 or a physician should be doing, um, an ultrasound or, I guess,
23 that sort of examination.

24 So, um, I guess that's kind of what I meant, um, when
25 I said, Guy was no help. Um, also, um, I don't know. The

1 physician that I saw said that he didn't, um, didn't know what
2 was going on and that he was, um -- I don't know. Just he
3 didn't know what was going on.

4 And then I guess WTF from Dr. Paduch was, from my
5 understanding at the time, was why wouldn't a doctor be doing
6 that.

7 MR. XIANG: Mr. Glogoff, if we can please jump ahead
8 to page 29 of the exhibit.

9 Q. So I want to focus your attention on the message beginning
10 at Tuesday, November 1, 2016.

11 Do you see that?

12 A. Yes, sir.

13 Q. And we'll just read these two messages, including your
14 response on November 2, 2016.

15 A. Yes, sir.

16 Q. So, I'll begin.

17 When are you coming again to my office so we can
18 practice more? Did you get flashlight?

19 A. In regards to practice, I get a decent amount at home,
20 laughy face. Hope I am going to come up to pick up the letter
21 of rec next week because we have off from school if that's OK.

22 Q. And the defendant responds, Sure.

23 Now, focusing on the defendant's first message, when
24 he asked when are you coming to my office so we can practice
25 more, what was your understanding of what the defendant was

1 referring to by practice?

2 A. Um, that I would go in and have an injection put into my
3 penis and he would masturbate me.

4 Q. And in that same message when the defendant wrote, did you
5 get flashlight, what was your understanding of what he was
6 referring to by flashlight?

7 A. He -- that's a typo. He asked me early on, he recommended
8 that I should get a Fleshlight, which is, like, I think, like
9 an article vagina to -- to -- yeah.

10 MR. XIANG: Mr. Glogoff, if we can please jump to page
11 13 of this exhibit.

12 Q. Mr. Lenox, we're going to focus on this message at the top
13 of the screen.

14 MR. XIANG: But in order for everyone to see the date,
15 why don't we go back a page and, Mr. Glogoff, if you could just
16 blow up for everyone the date at the top of the set of
17 communications.

18 Q. Is it October 4, 2016, Mr. Lenox?

19 A. Yes, sir.

20 MR. XIANG: All right. So if we now go back to the
21 next page.

22 Q. Again, I will read the message that the defendant sent and
23 you can read your own message. OK?

24 A. Yes, sir.

25 Q. If you jack off tonight let me see what happens; Skype or

1 FaceTime is fine. I am on my way to Washington, DC to give
2 testimony for congress so I will have some free time tonight
3 working from hotel. I want to mostly see if your head get as
4 big when you JO standing up or sitting down. I had one kid
5 with GL...

6 And then it's cut off with the view all.

7 A. I would rather not. I can self-report if that helps or
8 wait for the ultrasound. That sounds awesome. What are you
9 presenting?

10 Q. Focusing on just these messages, when the defendant
11 messaged, If you jack off tonight, let me see what happens,
12 Skype or FaceTime is fine, what was your understanding of what
13 he was directing you to do?

14 A. Um, go on Skype or FaceTime and masturbate with him on the
15 other end of the call, um, and show him my penis while
16 masturbating.

17 Q. And a bit of context, if we go to the screen before these
18 set of messages.

19 Actually, maybe one before that.

20 Had you, in the leadup to these set of messages,
21 expressed medical concerns about your ongoing issues?

22 A. Probably, yes.

23 Q. And at the time these messages were exchanged, were you
24 interested in the defendant's opinion as to what was going on
25 with you medically?

1 A. Yes.

2 MR. XIANG: And now going back to page 13,
3 Mr. Glogoff.

4 Q. When the defendant invited you to masturbate and FaceTime
5 him while doing so, at the time did you believe he was making
6 that request for a medical purpose?

7 A. I didn't think so at that time. I -- I -- I don't want to
8 say. I didn't know what to think of it. I just knew that it
9 made me feel incredibly uncomfortable so that's why I said no.

10 Q. In the defendant's message where he uses the term head,
11 where he says, I want to mostly see if your head get as big
12 when you JO standing up or sitting down.

13 What was your understanding of what head referred to?

14 A. The glands of my penis. The head of my penis.

15 Q. In that same sentence when the defendant used the term JO,
16 what did you understand those abbreviations to stand for?

17 A. Jack off. It's earlier in the text message.

18 Q. I'll just read for the record that in response to your
19 message at the bottom of the screen, the defendant wrote: Wait
20 for ultrasound then.

21 MR. XIANG: We can take that down, Mr. Glogoff.

22 Q. Now, Mr. Lenox, I want to focus for a moment on how your
23 appointments with the defendant got scheduled.

24 Did you generally handle scheduling yourself, or did
25 someone else handle it for you?

1 A. Generally, my mom.

2 Q. And yesterday, I believe you testified that where you saw
3 the defendant in person, you would travel from your home in New
4 Jersey to New York City in Manhattan, is that accurate?

5 A. That's correct. My mom or my dad would drive me.

6 Q. Would the purpose of those trips be to see the defendant,
7 or were you making those trips for some other purpose already?

8 A. No. We were going to a doctor's appointment. The doctor's
9 appointment to see Dr. Paduch.

10 MR. XIANG: Mr. Glogoff, if we could please publish
11 Government Exhibit 401 in evidence, and this time start at page
12 nine.

13 Q. Again, Mr. Lenox, we'll read each of the messages on this
14 page starting with your message at the top.

15 A. Yes, sir.

16 Hey, Doc. Wanted to talk to you about the next step
17 in tackling the ED, my T level is 655, which is awesome. It
18 got a bunch higher after the varicocelelectomy. But that raised
19 level hasn't translated into erections. Should I call the
20 office and make an appointment? Thanks.

21 Q. Redacted.

22 What time are you done with school? I have a dinner
23 to attend tonight. I won't charge you since I don't take your
24 insurance, but best to see me in follow up.

25 MR. XIANG: If we can go to the next page, please.

1 Q. I believe the message I just read was repeated, but if you
2 can read that next one?

3 A. Yes, sir. Sorry, sir.

4 I'll get my mom to arrange an appointment. What's the
5 next step with this? Little lost and in need of a plan.

6 Smiley face.

7 Q. Let's talk when you are done with school. Don't have your
8 mom call office cause then they will charge you for visit. I
9 can see you after hours in NYC or to chat as a friend in NJ.

10 So we can pause there.

11 At the time you exchanged these set of messages, did
12 you have an understanding as to why the defendant was
13 instructing you to tell your mom not to call the office about
14 this particular appointment?

15 A. Um, at the time, I guess it was --

16 THE COURT: I'm sorry.

17 MR. BALDASSARE: Objection.

18 THE COURT: Just give me one second.

19 MR. BALDASSARE: Judge, I just want to object, to the
20 extent the question seems to call for what is in Dr. Paduch's
21 head as opposed to the witness' understanding.

22 THE COURT: When you answer the question, just based
23 on what your understanding was, but don't speculate as to what
24 he may have been thinking.

25 THE WITNESS: OK. Sorry.

1 A. Can you repeat the question for me, please?

2 Q. Sure.

3 What did you understand the defendant was asking you
4 to do in this message when he says, Let's talk when you are
5 done with school, don't have your mom call office?

6 A. Um, I -- I don't know. Just to give him a call after,
7 after I was done with school. Um, my understanding from the
8 next message, I can see you after hours in New York City or
9 chat as a friend in New Jersey, maybe was that it wasn't going
10 to be, like, a traditional appointment or -- or that it
11 wouldn't be, um, I guess at the hospital. I wasn't sure what
12 that meant.

13 Q. Now, I want to focus on this term friend that the defendant
14 used.

15 At the time of this text message exchange, did you
16 consider the defendant your friend?

17 A. Um, yes. Friend or somebody I looked up to, for sure.

18 Q. What led you to believe that you were friends?

19 A. Um, so there was the internship where I interned for a
20 month and I saw him a lot. And then there is a lot of texting
21 exchanges and, I don't know, I guess kind of led me to have
22 that impression that I -- I don't know if I viewed him as a
23 friend. I viewed him as a doctor and a mentor on my side.

24 MR. XIANG: Mr. Glogoff, if we could please jump to
25 page 23 of this exhibit.

1 Q. And we'll start with the message with the photograph dated
2 October 31, 2016.

3 Do you see that, Mr. Lenox?

4 A. Yes, sir.

5 Q. Is there any significance to the calendar date October 31?

6 A. Yes, sir. It's Halloween.

7 Q. And is this a photograph that you sent to the defendant?

8 A. Yes, sir.

9 Q. Understanding that the face of the individual and the name
10 on the ID have been redacted, do you know who the individual
11 is --

12 A. Yes.

13 Q. -- in this photograph you sent?

14 A. Yes.

15 Sorry to interrupt. But yes, that was me.

16 Q. And can you just describe for the record what you're
17 wearing in this photograph?

18 A. Yes. I've got on, um, I've got on scrubs and, um, I've got
19 on my -- the Weill Cornell ID badge that I had got and given
20 from the internship.

21 Q. What was the reason you sent a photograph you yourself in
22 scrubs and wearing the ID to the defendant during Halloween?

23 A. Yeah. It was, like, a -- um, it was, like, a joke of,
24 like, hey, you know, I'm dressing up as a medical professional.
25 Um, more, like, in a reference to the internship that we had

1 just finished and this is what I'm dressing up as for
2 Halloween.

3 MR. XIANG: Mr. Glogoff, if we can go to the next
4 page.

5 Actually, the page after this, please.

6 Q. What did you write to the defendant immediately after
7 sending the photograph?

8 A. Sweet costume, right? Happy Halloween.

9 Q. And I'll read the next message.

10 That was Halloween in our house. Looking at the
11 photograph, the immediately following photograph that the
12 defendant sent you, what did you understand this to be a
13 photograph of?

14 A. Their Halloween festivities at Dr. Paduch and, I imagine,
15 friends.

16 Q. Can you just describe for the jury where the defendant is
17 in that photograph?

18 A. In the first one?

19 Yeah. In the first one, he's in between the two
20 girls, women.

21 MR. XIANG: Mr. Glogoff, if we could please jump ahead
22 to page 47 of the exhibit.

23 Q. And, Mr. Lenox, let's focus here on this set of messages
24 beginning Thursday, November 24, 2016.

25 Do you see those?

1 A. Yes, sir.

2 Q. What's your very first message in this exchange?

3 A. Happy Thanksgiving, man. And then a Turkey emoji.

4 Q. And the defendant responds, Same to you; don't stuff your
5 weiner into turkey. LOL.

6 A. Trust me, I definitely won't be doing that. Will not be
7 doing that. I don't know what Polish traditions you guys have,
8 but Thanksgiving in America doesn't usually imply that. Have
9 the day off?

10 MR. XIANG: Mr. Glogoff, if we could go to the next
11 page.

12 Q. The defendant responds, It doesn't?? So you and your dad
13 doesn't jeez inside? Your turkey must be really dry.

14 A. Remind me to never come over your house for Thanksgiving.
15 Laughing face.

16 Q. The defendant responds, You need to watch American Pie to
17 understand that it is common tradition.

18 A. I heard it's a good movie. I'll have to get around to it.
19 Working today or did you get the holiday off?

20 Q. Pausing there.

21 What was the purpose of this exchange between you and
22 the defendant?

23 A. Um, I said happy Thanksgiving, um...

24 Q. Did you understand what he was talking about when he said,
25 So you and your dad doesn't jeez inside?

1 A. No. I had no idea.

2 MR. XIANG: Mr. Glogoff, if we could jump ahead to
3 page 50 of this exhibit.

4 Actually, maybe the next page. I apologize. Sorry.
5 We were on the right page before.

6 Q. So let's focus on the set of messages beginning on
7 December 21, 2016.

8 Do you see those?

9 A. Yes, sir.

10 Q. Again, why don't you read yours and I'll read the
11 defendant's responses?

12 A. Hey, will you still be at the office at 4:30?

13 Q. What time did you send that message, Mr. Lenox?

14 A. 3:44 in the afternoon.

15 Q. And at what time did the defendant respond?

16 A. 9:25 at night.

17 Q. The defendant's response was, Tanks for stopping by. Sorry
18 I could play with your penis. Smiley face.

19 When the defendant wrote to you, I could play with
20 your penis or, Sorry I could play with your penis, what did you
21 understand him to mean?

22 A. Um, sorry I couldn't play with your penis. I think it was
23 meant to be that. I don't want to speak for what I think the
24 other person could have intended, but I believed it was meant
25 to be, Sorry I couldn't play with your penis.

1 Um, sorry. Can you repeat the question for me again?

2 Q. I think you've answered the question, so I'm happy to move
3 to the next one.

4 How did you respond to this message?

5 MR. XIANG: Mr. Glogoff, if we need to, we can jump to
6 the next page.

7 A. Laughing face. I do that well enough on my own. Have a
8 Merry Christmas, Doc.

9 Q. In response, the defendant sent you an image.

10 Do you see that image?

11 A. Yeah.

12 Q. Can you describe that image for the record?

13 A. Um, sorry. Can you repeat that for me, please?

14 Q. Sure.

15 Can you just describe what that image looks like for
16 the record?

17 A. Um, yeah. It's a caricature of Dr. Paduch with an enlarged
18 comically enlarged proportions.

19 Q. When you say enlarged proportions, are there particular
20 parts of the body emphasized in this image?

21 A. Yeah, yeah. Um, his genitals and his muscles.

22 Q. Um, and he wrote underneath the message, Same to you.

23 MR. XIANG: Mr. Glogoff, if we could go to the next
24 page to see what comes next.

25 Q. How did you respond?

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THE COURT: Sorry?

(Discussion off the record)

Can I see the lawyers at sidebar?

Thanks.

(Continued on next page)

1 (At at sidebar)

2 THE COURT: The witness is concerned that one of the
3 photographs of him was not redacted, and he said he feels like
4 he saw a photo that was not redacted.

5 I'm not sure where he saw it, but is there anything
6 that's not redacting?

7 Can we double-check on this exhibit?

8 MR. XIANG: Yes.

9 MR. BALDASSARE: He doesn't know where, though, he saw
10 it?

11 THE COURT: I'll ask him. Just stay here.

12 (Discussion off the record)

13 He said he thought he saw his picture unredacted in
14 the bottom right.

15 MS. ESPINOSA: We'll double-check the exhibit.

16 THE COURT: Thank you.

17 MR. BALDASSARE: Let me know before I start, because
18 obviously I'm going to look at these texts, so...

19 THE COURT: OK.

20 MR. BALDASSARE: Let me know.

21 MS. ESPINOSA: We'll take a look. There's enough of
22 us. We'll take a look now.

23 MR. XIANG: Thank you, your Honor.

24 THE COURT: Thanks.

25 (Continued on next page)

1 (In open court)

2 THE DEPUTY CLERK: We're waiting for a juror that's in
3 the restroom.

4 MR. XIANG: Your Honor.

5 THE COURT: Yes.

6 MR. XIANG: With respect to the issue that came up at
7 sidebar, does the court have any objection if we handed up a
8 hard copy of the Exhibit GX 401 to the witness?

9 THE COURT: That's fine.

10 We're just dealing with a technology issue, folks, so
11 just give us a minute.

12 While we sort this issue, I was going to instruct you
13 as to this earlier. It's unrelated.

14 But, as I said to you yesterday, opening statements
15 are neither evidence nor argument. So to the extent that any
16 comments were made yesterday during opening statements that
17 conflict with the legal instructions that I already gave you
18 during the voir dire process or that I will give you in the
19 future, I just want to make sure that you follow my
20 instructions on the law.

21 OK. Thanks. Are we OK?

22 MR. XIANG: May I approach the witness?

23 THE COURT: Yes, you may.

24 MR. XIANG: I'll just place on the record what I
25 handed up was just a hard copy of GX 401, which is the exhibit

1 that we've been discussing.

2 THE COURT: OK.

3 MR. XIANG: Mr. Glogoff, if we could please go back to
4 page 50 of GX 401.

5 Actually, I don't see it on my screen. Thank you,
6 Mr. Glogoff.

7 All right. Going to the next page and the page after
8 that. I apologize.

9 BY MR. XIANG:

10 Q. How did you respond to the defendant sending you that
11 image?

12 A. I said --

13 Sorry. Should we go back to the reading?

14 Is this --

15 Q. Yes. If you could just read your message the very top of
16 this page, sir.

17 A. Yes, sir.

18 I said, Oh, what the hell is that? And two laughing
19 faces.

20 Q. The defendant responds, Me.

21 A. Who drew that? Laughing face. Lotta emphasis on the junk.

22 Q. The defendant responds, LOL.

23 What did you mean by the term junk?

24 A. Genitals. If you look at the last photo, they are very
25 enlarged.

1 MR. XIANG: Thank you, Mr. Glogoff. You can take that
2 down.

3 Q. Now, Mr. Lenox, in the course of your communications with
4 the defendant, did he ever mention traveling for businesses?

5 A. Yes, sir.

6 MR. XIANG: Mr. Glogoff, if we could please go back to
7 GX 401 and start at page 31, please.

8 Q. You can start with your message at the top of this set of
9 text messages?

10 A. Yeah. Hey, can I come in Friday to pick up the letter?

11 Q. I am in China this weekend.

12 A. You travel too much. Throw me in the suitcase. I'm easy
13 enough to fit. When will you be back?

14 Q. Monday.

15 MR. XIANG: We can stop there.

16 Mr. Glogoff, if we could just scroll sequentially
17 through the next few pages of this exchange.

18 Maybe the one after this.

19 Q. Do you see that as part of this exchange, the defendant
20 sent you a series of photographs?

21 A. Yes, sir.

22 Q. To your understanding, what were these photographs of?

23 A. His -- his business trip in China, or hospital trip.

24 MR. XIANG: Mr. Glogoff, maybe one more screen of
25 this, please.

1 Thank you.

2 If we could please now jump to page 69 of this same
3 exhibit.

4 Q. What is the date of this exchange?

5 A. This is Wednesday, May 10, 2017.

6 Q. I believe you testified earlier about two surgeries that
7 the defendant had performed on you.

8 Do you recall that testimony?

9 A. Yes, sir.

10 Q. When was these set of messages in relation to those
11 surgeries?

12 A. This would have been after the second one.

13 Q. If you could please read your message at the top?

14 A. Yes.

15 Hey. When are my stitches to be taken out? My
16 followup is at the six-week . and my mom wanted me to make sure
17 it wouldn't be an issue (with her being a nurse and she's been
18 persistent about it) and if needed, we could have them removed
19 here. Thanks.

20 Q. Ampersand parenthesis ampersand.

21 Let them fallow out: We don't remover these stitches.
22 How are you doing? I am in Bilbao to give talks. Just came
23 here today and back in USA Saturday but I me.

24 Did you have an understanding of where Bilbao was?

25 A. I don't remember if I knew at the time, but it's in Spain.

1 Q. What was the impression that was left with you from these
2 communications from the defendant about traveling to China,
3 traveling to Spain, and testifying to congress?

4 A. Um, that he travels a lot as a doctor and that he's very
5 important in the field.

6 MR. XIANG: Thank you, Mr. Glogoff. You can take that
7 down.

8 Q. I want to return this second surgery, the one in 2017 that
9 you've testified about.

10 Can you remind the jury what type of surgery that was?

11 A. Yeah. It was supposed to fix my erection problems, and I
12 had veins taken out of my penis.

13 Q. Who performed it?

14 A. Dr. Paduch.

15 Q. Do you know the name for that type of surgery?

16 A. Yeah. I think it was called, like -- I don't know how to
17 pronounce it. HSU, venous stripping ligation. I don't know
18 exactly the full name.

19 Q. What was the effect of that surgery on your body?

20 A. I had a lot of pain following the surgery. It didn't help
21 with the erections, and I've been left with numbness and pain
22 in my genitals after, after the second surgery.

23 Q. Did the surgery leave you with a difference in how your
24 genitals appeared, how they looked?

25 A. Yeah, there is a scar. There is, like, a circumcision type

1 of scar, but I'm not circumcised so it looks kind of funny. I
2 don't know if that is too much information.

3 Q. Did you reach out to the defendant about postoperative
4 concerns that you had?

5 A. Yeah, definitely. I was very scared at the time.

6 Right after the surgery, my -- my penis shrunk to less
7 than half of its size, and I was very scared about what was
8 going on and that there was new -- new numbness. So, yeah, I
9 was very concerned.

10 MR. XIANG: Mr. Glogoff, if we could please publish
11 again GX 401 in evidence and jump to page 68.

12 Q. Focusing your attention on these set of messages beginning
13 on April 24, 2017, if I could ask you to please read your
14 message beginning at the very top?

15 A. Hey. Had some issues last night. Nothing major but a
16 couple questions. Do you have a time I could call you today?
17 Also when should I schedule a followup?

18 Q. Follow up in four weeks. Call me at 2:00 p.m.

19 A. Great. Call you then. Thanks.

20 Call now?

21 Q. Sure.

22 Mr. Lenox, following this second surgery that, as you
23 testified, changed the appearance of your genitals, did the
24 defendant continue to engage in erection practice with you?

25 A. No, not after. Not after the second surgery.

1 Q. After the second surgery that changed the appearance of
2 your genitals, did you perceive any difference in the
3 defendant's behavior towards you?

4 A. Um, sorry.

5 Can you repeat the question for me, again, please?

6 Q. Sure.

7 After your second surgery, did you perceive any
8 difference in the defendant's behavior toward you?

9 A. Yeah. After the second surgery, um, I guess, yeah.
10 Later -- I brought up that, you know, the surgery hadn't helped
11 and, if anything, things were worse. And, um, it was kind of,
12 like, at that point I was told, um, you know, there is nothing
13 else I can do, unless you want me to put an implant in your
14 penis, which is something that I had expressed for a while I
15 wasn't interested in. So it was kind of, like, hey, there is
16 nothing I can do for you anymore.

17 Q. Do you recall the very last appointment you had with the
18 defendant in person?

19 A. Yes, sir.

20 Q. Can you describe that appointment to the jury?

21 A. Yeah. So I was, at least from the best of my recollection,
22 I was asked to deliver a semen sample because I was dealing
23 with a lot of pain. And after I ejaculated -- so this time
24 Dr. Paduch wasn't in the room when I was asked to deliver the
25 sample. I was asked to do it myself. And there was, um, a new

1 type of summer intern, I guess. I don't know. I don't know
2 how old the guy was, but he wasn't a medical professional yet.
3 He seemed, like, he was early 20s.

4 Um, and I still had numbness in my penis, so I wasn't
5 able to deliver that sample. After that, I went back to his
6 office, which is right in the same hospital. Like, it's such a
7 short walk. I went back to his office and he said, like, you
8 know, there is nothing more I can do, really. This is it.

9 I said, like, OK. And I was pretty upset. I was
10 upset. So I went to shake his hand and he -- he opened his
11 arms and gave me a hug. And then that's what I recall to be
12 the last appointment.

13 Q. Now, I believe you testified just now that during this last
14 appointment, when you were asked to give a semen sample, that
15 the defendant was not in the room, is that your testimony?

16 A. Yeah. I think he dropped by at one point with the
17 gentleman, the kid he was with, whatever, that person was
18 following him was. He dropped by to see if I had done it,
19 like, completed it. I hadn't and, um, that was pretty much
20 that.

21 Q. Do you recall for this last visit where you went in order
22 to try to produce the semen sample?

23 A. Yeah, one of the examination rooms. Same -- I think there
24 is two examination rooms that I had gone to. One of the two
25 examination rooms I was left in.

1 Q. And when you refer to examination room, are you referring
2 to the same type of examination room as from your prior visits
3 with the defendant?

4 A. Yeah. Yes, sir.

5 MR. XIANG: Mr. Glogoff, you can take that down,
6 please. Thank you.

7 Q. Mr. Lenox, I want to focus on the three or four occasions
8 that you testified that you recall the defendant masturbated
9 you.

10 After each of those visits, did your parents, to your
11 knowledge, have an opportunity to speak face to face with the
12 defendant?

13 A. Yeah, I think so. Um, so after -- after the business
14 was -- after I was masturbated and had ejaculated, my parents
15 would speak to him about the results of, um, I guess, what his
16 medical opinion was and what to do at this point.

17 Q. Based on your observation of the discussions between the
18 defendant and your parents, did the defendant ever tell your
19 parents that he had masturbated you?

20 A. No, sir.

21 Q. The defendant ever tell your parents that he had you
22 ejaculate in front of him?

23 A. No, sir.

24 Q. At the time of these masturbation appointments, these
25 erection practices, how did you feel about the fact that the

1 defendant was masturbating you?

2 A. I was embarrassed. I felt shame. Um, there was pain --
3 you know, because you're having, um, a needle put into your
4 penis. Yeah. And, I guess, the effects kind of, um, at the
5 time it was kind of, like, I was very upset with my concern,
6 physical condition, you know.

7 I'm 16, 17. I'm in high school. I had girls that I
8 liked. I had, you know, I wanted to feel like I could fit in.
9 So I didn't really care about anything that was going on on
10 that front. OK.

11 If he can fix me, I'll deal with any of this stuff.
12 I'll -- you know, I'll just, whatever the doctor says, like, I
13 just want to -- I want to get fixed.

14 So, I guess it was more, like, as the years went on,
15 like, in the immediate aftermath of every appointment, you felt
16 physical pain and you felt shame and embarrassed. Like, you're
17 driving home with your mom and you just, you know, ejaculated
18 in an office with a doctor.

19 But, I guess, in the moment, I was, like, all right,
20 it is what it is. I just want to get fixed.

21 Q. Mr. Lenox, have you taken any legal action against the
22 defendant or the hospital?

23 A. Yes, sir. Um, semi-recently, like, two years ago.

24 Q. And is that legal action a civil lawsuit?

25 A. Yes, sir.

1 Q. What do you hope to achieve from that civil lawsuit?

2 A. I was angry when it started. I had gone to -- I had spent
3 a year with an amazing therapist, and I started feeling a lot
4 better. Maybe when I was 19. I started to see that therapist
5 when I was like 19 to 20, and she helped me a lot.

6 Um, and then I saw another therapist, and I guess it
7 got to the point where I saw -- I spoke to another physician,
8 urologist, who had always treated me with a lot of dignity and
9 respect with any of the appointments. And I asked him, like,
10 hey, is there anything I can do about this physical numbness.
11 Like, I'm still numb. I'm still getting pain. Is there
12 anything we can do about this.

13 He said, hey, you know, that surgery, I don't know why
14 he did it. No, this numbness will probably be pretty
15 permanent.

16 Sorry about that.

17 So, at that point I was pretty mad and, um, maybe I
18 was, like, 23. I'm 25 now. So, then I was very angry because
19 I was physically not only, um, mentally, kind of, like, I had
20 to go to a lot of therapy to deal with that stuff. Physically
21 I was, that was kind of the last straw for me. Like, I'm so
22 mad, um, I don't want this guy hurting anybody else or, um,
23 still practicing medicine.

24 So that was my -- I spoke to my dad and I was like,
25 hey, dad, what can we do? Do you have any ideas? Like, I'm

1 angry. He was, like, yeah. Let's see if we can find a lawyer
2 and go from there.

3 MR. XIANG: No further questions, your Honor.

4 THE COURT: All right. Why don't we take a break
5 before cross-examination.

6 Just remember, don't discuss the case and keep an open
7 mind.

8 (Continued on next page)

1 (Jury not present)

2 THE COURT: You can step down, if you want to.

3 Take a break.

4 (Witness temporarily excused)

5 Why don't we be back in about ten minutes.

6 Thanks.

7 (Recess)

8 THE COURT: Will you all make sure the redaction on
9 page 51 is complete?

10 MS. ESPINOSA: Yes.

11 THE COURT: Just tell me when you're ready. I don't
12 know if the witness needs a few minutes.

13 MR. XIANG: Could we go to sidebar on the record on
14 evidentiary issue, your Honor, evidentiary issue related to
15 privilege, your Honor?

16 THE COURT: Sure.

17 (At the sidebar)

18 MR. BALDASSARE: So, Judge, this is the witness -- for
19 the record, I'm looking at the attorney notes/equivalent to a
20 302 of April 15, 2024, and the report reflects that this
21 witness, Mr. Lenox, notes say eventually disclosed to law
22 enforcement at urging of civil counsel. Civil counsel
23 suggested that since filing suit might as well go all in.

24 I believe that I can ask one or two appropriate
25 questions that are not going to go beyond that, but I think

1 since he said that, as to those two sentences, I don't think
2 it's privileged.

3 MR. XIANG: Your Honor, the government has no
4 objection to cross-examination by -- the government has no
5 objection to cross-examination that will elicit just that
6 statement that is reflected in the 3500 material.

7 We will ask that the court consider issuing an order
8 under Rule 502(d) which provides -- I have a copy of the rule
9 in front of me -- a federal court may order that the privilege
10 of protection is not waived by disclosure connected with the
11 litigation pending before the court in which event disclosure
12 is also not a waiver in any other federal or state proceeding.

13 MR. BALDASSARE: I mean, first off, if that means --
14 And I think I'm fine with it, I have to look at it -- if that
15 means that by discussing my questions here today, he can still
16 assert privilege in the civil suit, that's fine. I don't care
17 about that.

18 And if that also means that, by asking about these, he
19 doesn't open up the privilege to everything else, I am fine
20 with that.

21 If the court could do that somehow outside the
22 presence of the jury, I would appreciate that.

23 MR. XIANG: Of course.

24 THE COURT: Yes.

25 Tell me, should that be in writing, should it be,

1 like, after we dismiss the jury and the witness?

2 MR. XIANG: So, I think we're happy to look at it. I
3 think just to preserve the record, for the witness's benefit,
4 if your Honor could orally so order now, and we can prepare an
5 endorsement later on.

6 THE COURT: That's fine.

7 When you say now, you mean before the jury?

8 MS. ESPINOSA: Before the jury.

9 MR. XIANG: Before the jury and at sidebar right now,
10 so that way, to the extent it comes up, it's not already a
11 waiver.

12 THE COURT: Yes.

13 MR. BALDASSARE: You can just say I stipulate to
14 502(d) protection.

15 THE COURT: Yes.

16 Tell me exactly which language you think I need to ...

17 MR. XIANG: I think it's (d).

18 THE COURT: OK.

19 MR. XIANG: So however your Honor wants to address
20 that.

21 THE COURT: Yes.

22 So I am ordering, consistent with Rule 502(d), that
23 the privilege or protection is not waived by the anticipated
24 disclosure connected with the litigation pending before the
25 court, in which event the disclosure is also not a waiver in

1 any other federal or state proceeding.

2 I'm happy to change the phrasing of that, but that
3 order is in place.

4 MR. XIANG: Thank you, your Honor.

5 MR. BALDASSARE: Since it's privileged, and I want to
6 be careful, I think the two questions here: Isn't it true that
7 you only disclosed this or that you eventually disclosed this
8 to law enforcement because you were urged to do so by yourself
9 counsel, right?

10 And then the second question would be: And the civil
11 counsel suggested that, since you were going to file a lawsuit,
12 you might as well, quote-unquote, just say might as well go all
13 in?

14 I think those are two fair questions.

15 MR. XIANG: I think those questions are both fair.

16 MR. BALDASSARE: That's it.

17 MR. XIANG: I would request, if the defense requests
18 that I be permitted to speak with the witness solely to address
19 that issue, because I think based on prior --

20 MR. BALDASSARE: That's fine.

21 MR. XIANG: -- prior meetings, he'll be under the
22 understanding that it's privileged.

23 THE COURT: It's on consent.

24 Go ahead. Thank you.

25 (Continued on next page)

1 (Jury present)

2 THE COURT: Everyone can be seated. Thank you.

3 Cross-examination.

4 MR. BALDASSARE: Thanks, Judge. Thank you.

5 CROSS-EXAMINATION

6 BY MR. BALDASSARE:

7 Q. Good morning, Mr. Lenox.

8 Can you hear me OK?

9 A. Yes, sir. Thank you, sir.

10 Q. My name is Michael Baldassare, and I represent Dr. Paduch
11 along with my colleague to my left. His name is Jeff Hawriluk.

12 A. Yes, sir.

13 Q. If at any point you can't hear me, please let me know and
14 I'll do my best to speak up.

15 A. Thank you, sir.

16 Q. We have never met before, correct?

17 A. No, sir.

18 Q. Mr. Lenox, your mom is a nurse, correct?

19 A. That's correct, sir.

20 Q. And your father is an acupuncturist?

21 A. Yes, sir.

22 Q. Were you recommended to Dr. Paduch by Dr. Malatack?

23 A. Dr. Malatack, yes, sir.

24 Q. Who was he at the time he recommended you to Dr. Paduch?

25 A. Yeah. He was -- I actually don't remember what specialty

1 he was in. I think he was an internist, which is a type of
2 doctor, and I was seeing him because I had high blood pressure
3 and because I was having the erection problems, so he
4 recommended me to go see Dr. Paduch.

5 Q. To your recollection, did the government ever interview
6 that doctor?

7 A. I don't think so.

8 MR. XIANG: Objection, your Honor. Calls for
9 speculation.

10 THE COURT: Overruled.

11 Q. In around 2015 or 2016, Mr. Lenox, did you go to a local
12 urologist?

13 A. Probably.

14 Q. Do you remember that around that time the doctors couldn't
15 figure out what issues you were facing?

16 A. Yes, sir.

17 Q. Did you feel brushed off by those doctors?

18 A. Yes and no. Some of them, yes. It felt like the
19 appointments were -- I don't know. They just couldn't figure
20 it out. Not really brushed off. More as confused or unable to
21 figure it out.

22 Q. Do you remember using the phrase brushed off at any point
23 when you were being interviewed by the government?

24 A. Exactly, no, but I could have done for sure.

25 Q. Do you remember one of those prior doctors saying that you

1 would simply grow out of your issues?

2 A. Yeah.

3 Q. When you began your treatment with Dr. Paduch, did you feel
4 that he was on your side?

5 A. Yes, sir. From the beginning, yes.

6 Q. Did you feel like he was a member of your team?

7 A. My medical team, yes. Yeah. He was my doctor.

8 Q. And were you in any way influenced with your opinion of Dr.
9 Paduch by the fact that he was director of sexual medicine at
10 Weill Cornell?

11 A. Yes, sir. That's a huge hospital. It's a big hospital, a
12 big physician in a big hospital. I thought he would -- I had a
13 lot of faith in him.

14 Q. During your -- strike that.

15 When you began your treatment with Dr. Paduch, did you
16 feel believed?

17 A. No.

18 Q. Did you feel seen and heard?

19 A. Not particularly, no.

20 Q. Do you recall telling the government during one of your
21 interviews that you felt believed?

22 THE COURT: At what point in time? Do you mean by Dr.
23 Paduch or beforehand?

24 MR. BALDASSARE: I'll start with the first question,
25 Judge.

1 Q. When you began your treatment, the beginning, with Dr.
2 Paduch, did you feel that he believed what you were saying
3 about your symptoms?

4 A. No. If I can clarify, maybe if I said something in the
5 past, I would definitely like, for clarity sake, no. In the
6 first appointment I was given an injection to induce an
7 erection. There was an erection. Dr. Paduch said: See,
8 you're fine. Take some Cialis. You'll be OK. I think a lot
9 of it was, I wasn't sure -- it felt like I was convincing the
10 doctor or trying to convince the doctor, hey, I do have a
11 problem, but I think with Dr. Paduch he was always willing to
12 make another appointment or maybe we could look at this from
13 another angle. Let's make another appointment. I think some
14 of it was from me fighting against feeling like I was not being
15 completely believed or understood, but he definitely gave me
16 more like, if you were to compare it like to the other doctors,
17 if that's what you're asking, he was definitely more willing to
18 make more appointments.

19 Q. I believe you said that initially he prescribed Cialis. Is
20 that correct?

21 A. That's correct, sir.

22 Q. You said that the Cialis didn't work, correct?

23 A. No, sir.

24 Q. Did you tell him the Cialis didn't work?

25 A. Yes, sir.

1 Q. And after that, did you begin a different course of medical
2 treatment with Dr. Paduch?

3 A. I don't recall, but, yes, sir, to the best of my knowledge,
4 I think that I kept being prescribed the Cialis, but it was
5 like, OK, what are we going to do next sort of thing. I don't
6 think it was, just keep on taking Cialis and things are going
7 to get better. It's, we are going to change course of
8 treatment.

9 Q. I want to talk to you a little bit about the internship,
10 Mr. Lenox, if that's OK.

11 A. Please, sir.

12 Q. You did graduate from college, correct?

13 A. That's correct, sir.

14 Q. And at the time you took the internship, you knew that
15 there were other interns at the hospital, correct?

16 A. Yeah. They were in college, and I was in high school. I
17 don't know. Yeah. I met other interns when I started, if
18 that's -- if I'm not being clear. I met other interns once I
19 started, but they weren't -- by interns, they were actually
20 college kids who were doing real stuff, yeah. I was still -- I
21 was like 17 in high school.

22 Q. Just so that we are on the same page, when I refer to
23 interns, I am talking about high school, college interns, not
24 physicians who are acting as interns.

25 Do you understand the difference when I say that, sir?

1 A. Yes, sir. Yes, sir.

2 Q. So unless I say differently, interns will simply be
3 internships for people who are not physicians acting as
4 interns. Is that OK?

5 A. Yes, sir.

6 Q. Thank you.

7 In the lead-up to the internship, am I correct that
8 you did deal with other people at Weill Cornell, correct?

9 A. Yes, sir.

10 Q. And you exchanged emails with other individuals at Weill
11 Cornell, correct?

12 A. Yes, sir.

13 Q. And do you remember exchanging emails regarding filling out
14 forms for beginning employment?

15 A. Yes, sir.

16 Just for clarity, I don't know if employment would
17 pertain to me because I wasn't being employed. It was like a
18 stipend. I remember filling out forms for that.

19 Q. Am I correct that the stipend you were paid was \$1200?

20 A. Yes, sir.

21 Q. And you were paid that, correct?

22 A. Yes, sir.

23 Q. And that was for working approximately Monday to Friday
24 9:30 to 3:30 or 4?

25 A. Yeah. Roundabout.

1 Q. As part of your work as an intern, were you involved in
2 slicing lab cultures?

3 A. Not slicing. There was a gentleman, Alex, who was like the
4 lab tech. If there was something cool he was looking at in the
5 microscope, he would show me. I didn't really do anything like
6 that. Again, I was in high school, and I didn't have any
7 science experience, so I would watch in the lab. I wouldn't do
8 anything.

9 Q. Did you have any involvement with biopsies?

10 A. Just for clarity, what do you mean by involvement?

11 Q. Obviously, I'm not asking if you were involved in assessing
12 or diagnosing biopsies. Were you taught anything or shown
13 anything about biopsies?

14 A. Yeah. I had a distinct memory. There was like -- I guess
15 like a project that I was put on, so it was kind of split in
16 between -- some days were lab days, other days I would follow
17 Dr. Paduch around, and there were testicular biopsies that I
18 had been looking at that I was told to look at.

19 Q. Were you similarly involved in anything to do with counting
20 cells? By that, sir, I'm not asking if you were responsible
21 for counting cells for purposes of a medical diagnosis, but
22 were you shown or taught anything about counting cells?

23 A. Yes, sir.

24 Q. And I think you said this as part of your internship you
25 shadowed Dr. Paduch?

1 A. That's correct.

2 Q. Did you shadow him regarding exams?

3 A. Yes, sir.

4 Q. Did you shadow him -- strike that.

5 Did you observe any surgeries?

6 A. Yes, sir.

7 Q. Did you observe Dr. Paduch engaged in any consults?

8 A. Yes, sir.

9 MR. BALDASSARE: At this time we are going -- I think
10 I need to use -- I'll do that later because I am going to have
11 to stop and open up --

12 Q. At some point after the completion of your internship, do
13 you recall obtaining a plaque of any kind?

14 A. From what I recall, there was like -- yeah, like a
15 certificate from Weill Cornell, and a few of the physicians had
16 signed it.

17 Q. I'm sorry. Did you say a few physicians?

18 A. Yeah, yeah. Couple of guys that I hadn't met before and
19 Dr. Paduch.

20 Q. Was one of the individuals who signed the certificate Dr.
21 Paduch?

22 A. Yeah, he was one of them.

23 Q. Was another one Dr. Schlegel?

24 A. From my recollection, but I wouldn't be like a hundred
25 percent certain on that, but from my recollection, yes.

1 Q. After you finished your internship, did you at any point
2 ask Dr. Paduch for any sort of letter of recommendation?

3 A. That's correct, sir.

4 Q. And do you remember about how far after the completion of
5 your internship you asked Dr. Paduch for that letter of
6 recommendation?

7 A. Yes, sir. So if I finished the internship roughly early
8 July or June or July, it would have been -- you know what, to
9 be honest, I don't exactly have a clear -- I know I was getting
10 ready for college. If I did the internship summer of my junior
11 year going into senior year, maybe it would have been a couple
12 of months later or maybe three or four months later, so maybe
13 November that applications are due. So it would have been
14 around then, I would imagine, that I asked Dr. Paduch for a
15 letter.

16 Q. Did Dr. Paduch provide the letter?

17 A. That's correct, sir.

18 Q. Did you make use of the letter in that application process?

19 A. Yup. I included it. I think I needed two letters of
20 recommendations, so he was one of the two.

21 Q. Did Dr. Paduch provide you that letter without any
22 questions?

23 A. Yeah. From my recollection, I went in, he was busy, so I
24 was told to wait a little bit. I got it, and I left. That's
25 to the best of my recollection right now.

1 MR. BALDASSARE: At this time I would just ask --
2 there is back and forth about which versions. To be safe, we
3 are going to go with the sealed version -- we are going to go
4 with sealed Exhibit --

5 THE COURT: Just make sure the screens are off.

6 MR. BALDASSARE: Sorry for the confusion, Judge. We
7 just want to be very careful.

8 THE COURT: I appreciate that.

9 MR. BALDASSARE: We are going to ask that the
10 attorneys and the witness at first be shown sealed Exhibit
11 D301.

12 Q. Mr. Lenox, can you see what's on the screen marked as
13 Defendant's Exhibit 301?

14 A. Yes, sir.

15 Q. Do you recognize the handwriting on this exhibit?

16 A. Yeah. Actually, to be honest, no. What I mean, it looks
17 like it might be my parents', but it's not mine.

18 Q. The handwriting here looks like it might be one of your
19 parents?

20 A. Yeah. I don't write in cursive.

21 MR. BALDASSARE: If we can turn to the next page.

22 Actually -- I would move in D301.

23 MR. XIANG: No objection, your Honor.

24 MR. BALDASSARE: I would ask that it be published to
25 the jury.

1 THE COURT: It will be admitted as a sealed document,
2 consistent with my prior rulings regarding sealing.

3 (Defendant's Exhibit 301 received in evidence)

4 MR. BALDASSARE: I guess if we can go back to page 1.

5 Can we look at the top since, I believe, it's sealed
6 and it's only for those of us up here.

7 Q. Do you recognize this as the application for the volunteer
8 service?

9 A. That's what it reads. I don't really remember much about
10 the application, but that's what it says at the top, yes, sir.

11 Q. Do you remember filling out any forms for the internship?

12 A. Yes. This form was filled out, it looks like, by my mom,
13 but I would have printed out and given her the form.

14 MR. BALDASSARE: If we could turn to the next page of
15 sealed Exhibit D301.

16 Q. In the middle of that page, under volunteer signature, do
17 you see that box, sir?

18 A. That's my signature, yes, sir.

19 MR. BALDASSARE: We are done with that. You can take
20 it down.

21 Q. Mr. Lenox, can you describe for me, to the best of your
22 recollection, the layout of the exam room where you were
23 describing your visits with Dr. Paduch.

24 A. Yeah. I guess there were two examination rooms that I
25 remember going into. There could have been -- I believe there

1 were four, and you walk in. To the left there is like -- to
2 the left or to the right there is like a doctors' -- like a
3 patient examination thing. If you go to a doctor's office,
4 like they have that tissue paper on it that kind of reclines a
5 little bit, and then you have a computer on the far side of the
6 office. It's not that far. On the opposite side of the door.

7 Q. Can you tell me, what is right outside that door, a hallway
8 or a walkway? Can you describe that, sir?

9 A. Yeah. There is like -- I'm sorry. I am going to try and
10 explain it without using my hands, but there is a hallway,
11 there is like a little sitting area, there is another
12 hallway -- by another hallway, I mean the other side of the
13 sitting area, and that represents most of the exam -- if there
14 are like four exam rooms, one, two, three, four, yes.

15 Q. If there were a sitting area on the other side, or whatever
16 was on the other side of, I think it was walkway, how far away
17 would that sitting area be?

18 A. From my recollection, maybe like 10 feet. That was for
19 like once a patient has already been admitted or like checked
20 in and completely like brought through, there was a waiting
21 area that's completely separate from all this description.

22 Q. When you were going in or out of the exam rooms, did you
23 ever see any other people?

24 A. Yeah, I'm sure I did.

25 Q. Would you see nurses?

1 A. I'm sure.

2 Q. Would you see doctors?

3 A. Occasionally, potentially. I primarily just remember
4 seeing Dr. Paduch, but I'm sure other doctors could have walked
5 through.

6 Q. Would you see people in street clothes who would appear to
7 be patients?

8 A. Yeah.

9 Q. You've never made any claim, have you, that the door to the
10 exam room you were in was locked at any time, correct?

11 A. From my recollection, no, I don't believe it was. No, it
12 wasn't locked. Yes. Sorry. I was just going to say, to the
13 best of my knowledge, sometimes I guess like you're not really
14 paying attention if you're like about to have an examination,
15 and I don't know how the doors lock at that building, but to
16 the best of my knowledge, no. I remember it was always a
17 policy of knocking first. Like you couldn't -- it seems like
18 you couldn't enter without a knock.

19 Q. I believe you testified earlier -- you said something about
20 Dr. Paduch's husband, correct?

21 A. Yes, sir.

22 Q. And I think you said something about either his kid or
23 kids, correct?

24 A. Yeah.

25 Q. And I think you said that you also heard that he had a

1 wife, correct?

2 A. At one point, yes. That was originally, when I first
3 started seeing him, my family's impression.

4 Q. Do you believe any of those three statements, wife,
5 husband, or kids, is a lie?

6 A. No. I just think chronologically, when we started
7 seeing -- when I started seeing Dr. Paduch, and I guess when he
8 spoke to my parents at the beginning, he made a point of his
9 wife and kids and it was in the present tense. Then later on I
10 was told that it was -- that he was married to Robert and it
11 was exwife and, I guess, kids.

12 Q. Mr. Lenox, I am going to use a whole bunch of dates, and
13 I'm only asking approximate. I do not expect nor am I going to
14 ask you an exact date from say 2015. OK?

15 A. Thank you, sir.

16 Q. You're welcome. Not a lot of people say thank you to me
17 for anything, so I appreciate that.

18 Do you remember your first visit with Dr. Paduch being
19 around September 3, 2015?

20 A. That's correct.

21 Q. And your next visit being a couple of months later, early
22 December of 2015?

23 A. I would imagine so, yeah. It was a short time period.

24 Q. And am I right that within about a month after that second
25 visit you had surgery with Dr. Paduch?

1 A. Timeline, I don't recall. If that's what the dates say,
2 then I would imagine that's correct, but if you were to ask me,
3 I would imagine there would have been at least a couple more
4 appointments than just first appointment, second appointment,
5 surgery. In my mind, I guess I would have thought that there
6 would have been at least one or two more, but if that's what it
7 says, then I'll go with that.

8 Q. Do you remember the surgery being in early January of '16,
9 shortly after New Year's?

10 A. Yeah, I would imagine so. To the quite honest with you,
11 the first surgery wasn't particularly memorable, in my mind,
12 because I wasn't -- as far as like side effects or stuff
13 afterwards, my testicles swelled up, but they went right back
14 to normal, so it wasn't anything that was too traumatic for me.

15 Q. Do you remember two -- strike that.

16 Am I correct that after the first two or perhaps a
17 couple of more visits with Dr. Paduch, you and your family were
18 comfortable with him performing surgery on you?

19 A. No. I don't think anybody is ever really comfortable with
20 it. I know for me I wanted to be fixed. In my head I wasn't a
21 medical professional. I was like, OK, this isn't working.
22 Surgery should work. In my mind I was like, you know -- I
23 guess what any kid of -- like your assumption of medicine.

24 So my family, no, they were not very comfortable, I
25 guess. It was like -- I don't know. It's all an uncomfortable

1 subject and nobody really -- we are not -- my parents are not
2 urologists. My dad is an acupuncturist.

3 I don't anybody was really jazzed about surgery. I
4 think in my mind I want to get fixed. If it's surgery, it's
5 surgery. I think I said earlier in my earlier testimony I had
6 a lot of faith in Dr. Paduch being the director of sexual
7 medicine at Weill Cornell Medical Center.

8 Q. Do you recall, after the surgery, another appointment about
9 30 days after surgery for a checkup?

10 A. Just for clarity, surgery number one, the first one?

11 Q. Yes, sir.

12 A. I would imagine, sir.

13 Q. Do you recall another, post first surgery, in around -- in
14 around March of '16?

15 A. No. But if that's what the dates say, then I would
16 imagine, but I can't really recall that right off the bat what
17 that date was or what that appointment would have looked like.

18 Q. I am not going to ask you for the exact -- one second.

19 MR. BALDASSARE: I am going to ask Mr. Glogoff to
20 bring up sealed Government Exhibit 301, which is already in
21 evidence for the jury and the lawyers and the witness.

22 Q. Do you see this, sir?

23 A. Excuse me. Yes, sir.

24 Q. And based on your birthday, would you have become 18 on
25 XXXXXXXX?

1 A. Yes, sir.

2 MR. BALDASSARE: We can take that down.

3 Q. So that would be approximately eight months after the first
4 surgery that you became 18, correct?

5 A. I would imagine so. Or like two or three months after the
6 internship.

7 Q. You recall an appointment with Dr. Paduch around October of
8 2016?

9 A. Not off the top of my head.

10 Q. Do you recall there being a stretch of time between one of
11 your visits and then a new visit in 2017?

12 A. Could you give me dates for clarity? Maybe that will help.

13 Q. I'm sorry. I didn't hear your answer.

14 A. Excuse me, sir. Could you just repeat the question. I
15 don't know if there is any dates -- just repeat the dates,
16 please.

17 Q. Sure. Do you recall a visit with Dr. Paduch in around
18 October '16 and then the passage of time until the end of
19 February of '17, before you saw him again?

20 A. I would imagine that that's correct, if that's what the
21 records say. Nothing really strikes me in my mind as like
22 thinking, oh, there is like pages in between appointments, off
23 the top of my head. If that's what the dates say, I would go
24 with the dates.

25 Q. Maybe if I work it backwards, it will be more helpful.

1 You had a second surgery with Dr. Paduch, correct?

2 A. Yeah. That was in April of 2017.

3 Q. So in April of 2017 you had your second surgery. Do you
4 recall two or three appointments in the months preceding that?

5 A. Yeah. On the buildup to the surgery what sticks out in my
6 mind is I had -- I don't know -- I think it was like an MRI
7 that I went in and I had done at the Weill Cornell Medical
8 Center. I think -- yeah. I had an MRI as far as like buildup
9 to it.

10 Dr. Paduch, I spoke with him before and after, and I
11 think maybe one more in the buildup to that surgery. I think
12 the MRI and then maybe one more, but I am not sure about the
13 other one after the MRI.

14 Q. After that surgery, do you recall a couple of follow-up
15 visits with Dr. Paduch in the summer of 2017?

16 A. Yeah. I remember two.

17 Q. And ballparking it, sound right that your last visit with
18 Dr. Paduch was around the 4th of July of 2017?

19 A. I would imagine that sounds like that could be correct.

20 Q. Now, earlier Mr. Lenox, you testified about a lawsuit.

21 Do you remember that?

22 A. Yes, sir.

23 Q. Would it sound about right to you that that lawsuit was
24 filed in December of 2022?

25 A. Yes, sir.

1 Q. After that lawsuit was filed, you met with the U.S.
2 Attorney's Office a number of times, correct?

3 A. Yeah.

4 Q. Do you remember your first meeting with them being in early
5 February of 2023, a couple of months after the lawsuit was
6 filed?

7 A. Yeah. There was a Zoom meeting, like a WebEx sort of
8 thing.

9 Q. I didn't hear the end.

10 A. Sorry. It was either on Zoom or WebEx. It's like a video
11 platform.

12 Q. Right.

13 So your recollection is your first interaction or your
14 first interview with the U.S. Attorneys was over WebEx around
15 early February of '23, correct?

16 A. Yeah. That would make sense.

17 Q. And would it be fair to say that about a year passed before
18 your next interview?

19 A. Yup. I don't know if it was exactly a year. It could have
20 been a little less or a little more, but that sounds about
21 right.

22 Q. Would it be fair to say that, in March of 2024, just this
23 past March, you met with the U.S. Attorney's Office four times?

24 A. Yeah. So there was a mixture of WebEx meetings, and I
25 believe I went in person twice. But I think it was twice that

1 I went in person.

2 Q. Was that during March that you remember the in-person, this
3 March?

4 A. Yeah. Maybe one in March, one in April. Maybe they were
5 like three weeks apart, or something like that.

6 Q. Do you remember meeting with the U.S. Attorney's Office two
7 times just this past April?

8 A. I'm not sure. I know I went in semi recently in person,
9 but I was getting a bit overwhelmed with all of it, so I asked
10 for a little bit of a break, and, yeah. I don't know how many
11 times I was in April.

12 Q. When was the last time you met with any of the prosecutors
13 sitting to my right today?

14 A. Maybe about 10 days ago. Like two weeks, probably. I
15 don't have the exact date. I don't have it off the top of my
16 head.

17 Q. Did you have any conversations with them yesterday?

18 A. No, sir.

19 Q. Did you have any conversations --

20 A. Sorry, sir. Yeah. After the direct, I was sitting in the
21 waiting room -- yeah. It's a very short interaction yesterday.

22 Q. If my math is correct, would it be about correct that your
23 first meeting with the government in 2023 be about six years
24 after your last appointment with Dr. Paduch?

25 A. Sorry. Could you repeat the question for me again, please.

1 I apologize.

2 Q. Sure.

3 Let's do it this way. Do you remember testifying a
4 minute ago that your last appointment with Dr. Paduch you
5 thought could be around the 4th of July 2017?

6 A. That's correct.

7 Q. And your first meeting with the U.S. Attorney's Office,
8 would it be fair to say, was around February of 2023?

9 A. Yes.

10 Q. At these meetings were some or all of the prosecutors to my
11 right in attendance?

12 A. Sorry. It's my left. I wasn't sure where to look. I
13 believe most of them were there for all of them, but, yeah, I
14 recognize all of them.

15 Q. Do you remember any of the paralegals being there?

16 A. Yeah.

17 Q. Do you remember at some or all of them an FBI agent being
18 there?

19 A. Yeah, I believe so.

20 Q. And I don't want you to think, sir, that I'm suggesting
21 there is anything inappropriate about this. In fact, it's
22 probably perfectly appropriate.

23 Were the lawyers for the lawsuit you filed, the civil
24 lawsuit, were they there?

25 A. Yeah. They were dialed in by phone, so, yeah, they were --

1 it was like a phone put on the table, at least the first one,
2 and I think they were dialed in over video call.

3 Q. Were they personally present at any of the meetings?

4 A. No.

5 Q. Do you know, and this is just to your knowledge, were any
6 of the meetings recorded by video?

7 A. I don't know.

8 Q. How about by audio?

9 A. I don't recall. I would imagine so. Like in my mind, I
10 guess, I assumed that it would have been if I'm speaking to the
11 Department of Justice. In my mind it was like definitely a
12 possible.

13 Q. With respect to the surgeries, the two surgeries that Dr.
14 Paduch performed, am I correct that he, for at least one of
15 them, offered you the information of someone who had already
16 had that surgery with him?

17 A. Yes, sir.

18 Q. Was it your understanding that he had given you that
19 information so you could talk to that person and possibly
20 assuage some concerns?

21 A. Yes, sir.

22 Q. Did you talk to that person?

23 A. Yes, sir.

24 Q. And did that person make you feel at all -- nobody wants to
25 go to surgery, right?

1 A. I understand, yeah.

2 Q. Did talking to that individual assuage any of your
3 concerns?

4 A. Yeah.

5 Q. And before calling that person, did Dr. Paduch ever say to
6 you, don't tell this patient about any of our office visits?

7 A. No. I don't think I called the guy that Dr. Paduch gave me
8 his number. I believe I texted him. But, no, Dr. Paduch
9 didn't tell me not to.

10 Q. So Dr. Paduch never said, don't mention what happens during
11 our office visits when you're in contact with this person about
12 your surgery?

13 A. No, sir.

14 Q. During your office visits with Dr. Paduch, was he always
15 fully clothed?

16 A. Yes, sir.

17 Q. Am I correct you have never made a claim that Dr. Paduch
18 asked you to touch him in any way, correct?

19 A. That's correct. No, sir. That never happened. I was
20 never asked to touch Dr. Paduch.

21 Q. With respect to what you testified about earlier about
22 semen being smeared on your face, do you remember, after that
23 happened, sort of pitching it as a joke to your mom?

24 A. Yeah. I remember I was completely like -- I was shocked
25 and I was like, you know -- I didn't know what was going on and

1 it was -- it was uncomfortable, and I needed to tell somebody
2 because I was 17 or 16. I think I was 17. I'm young. I'm
3 scared and uncomfortable. So I wanted to tell somebody and
4 after I told her, it was oh, shit, this is a huge -- physician
5 of a huge hospital. I want to keep on seeing him. It was a
6 joke. He smeared my semen on my face in a joking manner.

7 Q. At the time you told your mom this, was she a nurse?

8 A. Yeah.

9 Q. Do you know if she confronted Dr. Paduch about that?

10 A. Yes and no. At one point I remember my mom -- I think I
11 said earlier, I testified earlier that it felt like I was
12 convincing Dr. Paduch's points, like I wasn't fully believed.
13 And I remember one visit when my mom went in and we kept on
14 doing the same thing, whether it was more ultrasounds or
15 whether it was more erection practices. I don't know what it
16 was for. It could have been for one of the surgeries. I don't
17 know. My mom said, hey, we need to do something different
18 because this stuff isn't improving. Besides that, my mom
19 didn't confront him, no.

20 Q. Is it your testimony that that happened during the first
21 visit?

22 A. No. The semen smeared on my face was not on the first
23 visit, no.

24 Q. Do you recall about how many visits in it was?

25 A. Maybe about six to eight months in, I would imagine. It

1 wasn't around the first visit, no.

2 Q. You testified that it happened during a visit where you
3 were a minor?

4 A. To the best of my recollection, yeah. But I wouldn't --
5 yes, to the best of my recollection.

6 Q. Am I correct that on at least one visit Dr. Paduch
7 recommended that your mom leave the exam room?

8 A. I don't recall. I don't recall.

9 Q. You recall ever saying that to the government during any of
10 your interviews with them?

11 A. Right now I don't recall, no. I believe, as far as like
12 mom or dad being in the room, like it was kind of like put to
13 me, like, hey, like -- it almost felt like an agreed-upon
14 thing. My pants are going to be down. So, mom, dad, I don't
15 want you in the room.

16 Q. I'm only asking to your recollection, not whether it
17 actually happened or not. But to your recollection, did the
18 government ever interview your mother?

19 A. No, they didn't. They did not, to the best of my
20 recollection.

21 Q. Again, to your recollection, did they ever interview your
22 father?

23 A. No, sir.

24 Q. We agree your mom accompanied you to some of the visits?

25 A. Sorry. Could I clarify something with the last answer?

1 THE COURT: Yes. Go ahead.

2 A. So they did ask. I was asked, like, hey, like how would
3 you feel if we talked to your mom. We'd like her to -- we'd
4 like to speak with her and get some more information, but I've
5 been really -- this is not an easy process. And I felt
6 strongly that I didn't want my parents really dragged through
7 this. So I said, when they asked -- they were very polite and
8 they said: It is up to you. I said: If you don't have to,
9 that would be great. So they did ask. But in the end they did
10 me the courtesy of not forcing them to go through that.

11 Q. Was that with respect to a request by the government to
12 interview your mom and your dad that that same process or that
13 same conversation happened?

14 A. Sorry. Can you repeat that for me?

15 Q. Sure. I'll just break it down.

16 A. I just didn't hear you correctly. I'm sure you said it
17 fine.

18 Q. It was a bad question, so you're exactly right.

19 Am I right that the government at some point asked to
20 interview your mom, and you asked that they not do it, and they
21 didn't, as far as you know?

22 A. To the best of my recollection, yeah. It was a
23 professional courtesy. I don't know if that's the right word,
24 but just that this is tough to go through, so it was like, you
25 know, thank you for doing this because, you know -- thank you

1 for stepping up. We don't want to drag you through everything
2 that you're completely uncomfortable with. That was that.

3 Q. If I asked you that same slightly long-winded question with
4 respect to your dad, did the same thing happen with an
5 interview regarding your father?

6 A. No. I think I spoke more about my mom whenever I was
7 speaking to anybody. My dad maybe took me to two appointments.
8 Majority of the time it was my mom that was taking me and
9 scheduling the appointments.

10 Q. Did your dad ever accompany you to any appointments with
11 Dr. Paduch?

12 A. Yes. There are two specifically in my mind that I recall,
13 the first one and the second one, when the -- when I testified
14 earlier that my ejaculatory fluid got on Dr. Paduch's shirt.

15 Q. If you answered this, I truly apologize, but did the
16 government ask to interview your dad?

17 A. To the best of my recollection, no, they did not.

18 Q. Do you recall, at some point during your course of
19 appointments with Dr. Paduch, being upset at the thought that
20 your mom might stop you from seeing him?

21 A. Yeah.

22 Q. Do you recall feeling that you would have hated her if she
23 put a stop to it?

24 A. Yeah. I think I said something along the lines of, I was
25 incredibly motivated to get fixed, right, and there is -- I had

1 a lot of faith in Dr. Paduch. And if I like -- why I kept a
2 lot of it -- because I didn't go out -- the last part I said,
3 there was semen on my face, but I don't think I was like -- I
4 didn't go into detail about what happened at the appointments.
5 For the most part, I kept that detail to myself because I
6 didn't want to be stopped from going to the appointments.

7 Q. Do you recall recently telling the government that the
8 first meeting with Dr. Paduch is something of a blur?

9 A. A little bit. I testified earlier it was my first meeting.
10 I don't remember -- I was really nervous, I remember. I
11 testified earlier there was a finger in my rectum. The first
12 meeting, besides that, there was no like -- it was a little bit
13 more blurry, the memory.

14 Q. Am I correct that you don't recall if you saw any nurses at
15 all during that first meeting?

16 A. I am not sure there would have been nurses in the building
17 or like in the waiting room, but, no. The first meeting I
18 remember Dr. Paduch.

19 Q. Am I correct that you don't recall whether or not Dr.
20 Paduch was wearing gloves during that first meeting?

21 A. No, sir, that's correct. I don't recall.

22 Q. And am I correct that at the end of that first meeting your
23 dad came into the exam room?

24 A. Yeah. He either came into the exam room, or we may have
25 spoken in the office afterwards.

1 Q. Mr. Lenox, am I correct that you occasionally are worried
2 about your ability to recall events accurately?

3 A. Yes and no. So if you were to -- the memories that I
4 testified to earlier are ones that like I have -- you can
5 picture them in your head and it's like playing a movie, like
6 the four times that I recalled. If it's questions like, did he
7 wear gloves, that sort of thing, then I would be concerned if I
8 was able to answer that correctly, yeah.

9 Q. Have you ever expressed concern about recalling something
10 incorrectly?

11 A. Yeah. I think that it's always a place of concern. Just
12 in regards to questions like outside of that or like, oh, like,
13 if somebody, you know, was to ask, like, you know, was it more
14 than three or four times, then it's like, you know -- if
15 somebody was to ask, you know, was it more than three or four
16 times that you were masturbated, I'm very cautious about -- I'm
17 only speaking to the stuff that I clearly and vividly remember.

18 As far as other stuff, if I was at an appointment and
19 there was an ultrasound or something, like, oh, I don't know --
20 no. I'm not particularly concerned about my clarity in the
21 time that I was masturbated.

22 And the other times I'm like, you know -- you
23 mentioned earlier a gap between October and February. That's
24 something that isn't particularly clear in my head. If
25 somebody asked me multiple questions about that, I would be

1 concerned about my recollectionability.

2 Q. I believe you testified on direct examination that you have
3 had treatment with a therapist?

4 A. Yeah. Two.

5 Q. Do you remember, again, ballpark, when that therapy began?

6 A. Yes, sir. I would imagine that the first time would have
7 been in 2018 or 2019 I started seeing -- I was having a really
8 hard time with these memories and these recurring thoughts and
9 memories, so I started seeing a therapist for about a year and
10 a half and then some time lapsed and I just had like, you
11 know -- I wouldn't say the term flareup, but I was started to
12 be bothered again by a couple of memories or things, so I saw
13 another therapist for a short amount of time. Recently I have
14 been going to see him again because this is stressful.

15 (Continued on next page)

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1 BY MR. BALDASSARE:

2 Q. By this, do you mean the proceedings that we're here for
3 yesterday and today?

4 A. Yes, sir.

5 Q. OK. But, just so we're clear, so the start of the therapy
6 was around, you said, '18 or '19?

7 A. Yes, sir. That's correct.

8 MR. XIANG: Sorry. Just for the record, can we
9 clarify, does 18 or 19 refer to ages or 2018 or 2019?

10 THE COURT: I assumed you meant 2018 or 2019.

11 MR. BALDASSARE: You assumed correct, Judge.

12 THE COURT: Is that right?

13 THE WITNESS: Yes.

14 Q. Now, just so we can remember, your last visit with
15 Dr. Paduch was sometime in 2017, correct?

16 A. Correct, sir.

17 Q. Did you make any report of Dr. Paduch's activity in 2018?

18 A. No, sir.

19 Um, wait. When you say report, I told the therapist.
20 I spoke with her about it.

21 Q. OK.

22 A. But, no, I didn't make any official reports or anything
23 like that.

24 Q. Let me ask a better and more specific question.

25 Did you make any report to any law enforcement in

1 2018?

2 A. No, sir.

3 Q. OK. Do you know if your family, to your knowledge, made
4 any report in '18?

5 A. To law enforcement?

6 No, sir.

7 Q. How about 2019?

8 A. No, sir.

9 Q. 2020?

10 A. No, sir.

11 Q. 2021?

12 A. No, sir.

13 Q. 2022?

14 A. As you mentioned, I -- yeah, it would have been around late
15 2022 that the police were, um, informed.

16 Q. And would that be around the time of your -- of the
17 beginning of your meetings with the U.S. Attorney's office?

18 A. Um, yeah.

19 As I think you mentioned it earlier, that I started
20 seeing them in February. So that would have been around the
21 time.

22 Q. Do you remember if that report was made around the time
23 that the civil lawsuit was filed?

24 A. Yes, sir. It probably would have been around maybe a few
25 months.

1 Q. I'm sorry?

2 A. Yeah. Um, as far as, like, timeline goes with the civil
3 lawsuit, I remember, like, I -- I wasn't incredibly -- like, I
4 knew roughly what was going on. But as far as, like, when
5 things were being filed, it was hard to keep up with -- because
6 it's, like, different processes.

7 Say that I started in, like, September of speaking to
8 somebody in 2022, I guess, or -- September, yeah. Probably
9 September 2022, that I believe that I would have spoken with
10 the DOJ, as you said, around February 23, 2023.

11 Q. OK. In 2018, did you make any reports to any medical
12 boards about Dr. Paduch?

13 A. No.

14 Q. Do you know if anyone in your family did?

15 A. No.

16 So, I started going to a therapist, as I mentioned,
17 and, um, so that would have been 2018 and 2019. And she asked
18 me. She said, hey, XX -- Sam -- said, hey, this is, like, a
19 good -- maybe you would want to do this. And I said no. Um,
20 like, should I feel guilty for not doing this?

21 What should I -- what should I do? And, um, I was
22 very scared and I was having a hard time going through therapy.
23 It's not easy.

24 And she -- she said, listen, Sam. You've got, you're
25 allowed to worry about yourself first before you worry about

1 anybody else. Um, so, no. It was brought to my attention that
2 that was an option for me and it was a scary prospect for me,
3 so I didn't, unfortunately.

4 Q. And by an option, you mean, like, a licensing board?

5 A. Can you repeat that, please?

6 Q. Sure.

7 A. I'm sorry. I think I understand your question.

8 The option for me was to go to the police or, like,
9 FBI. Um, the FBI, actually, I didn't know that was, like, a
10 thing.

11 Just the police, and I -- I said no because I was --
12 um, it was scary and it was really daunting. So, then I didn't
13 make any reports to any medical boards because it was scary and
14 daunting, and I was having a really hard time dealing with it
15 with myself for -- before really speaking to any people about
16 it.

17 Q. And I'll just ask one broad question so that we don't have
18 to go through every time.

19 Between 2018 and 2022, do you know if your parents or
20 anyone in your family went to any medical boards about
21 Dr. Paduch?

22 A. Um, my mom went to therapy and, um -- but, no, she didn't
23 go to a medical board because this was my thing. And it was,
24 like, if -- if -- if I was -- if I was uncomfortable with it,
25 and I'm sure my mom would have been on the side of, like, hey,

1 let's do something about this.

2 But if I said -- and I'm sure I said -- mom, like,
3 I'm -- I'm struggling to deal with this. I can't go forward.
4 You know, I can't file reports or anything like that. Like, I
5 can't do this right now. Um, so, um, no, she didn't. And I'm
6 sure it was partially out of respect or definitely out of
7 respect for my wishes.

8 Q. I'm going to ask one combination question that may be
9 compound, but I want to try to make this easy for you, sir.

10 A. Thank you, sir.

11 Q. All right. From 2018 to 2022, to your knowledge, did you
12 or anyone in your family make any complaints about Dr. Paduch
13 to Weill Cornell?

14 A. No, sir.

15 Q. So, the same kind of question.

16 From 2018 to 2022, did you or anyone in your family
17 post anything anonymously or otherwise on Google or any
18 websites or anything about Dr. Paduch?

19 A. No. To my understanding, no.

20 Q. Do you recall --

21 MR. BALDASSARE: One second, Judge, please.

22 (Counsel confer)

23 Q. Mr. Lenox, without the need for you to go into detail, do
24 you recall ever discussing Dr. Paduch with someone named Jamie?

25 A. No, no.

1 Q. Does the institution St. Francis ring a bell?

2 A. Yes, sir.

3 Q. Do you recall discussing Dr. Paduch with anyone at
4 St. Francis?

5 A. Yeah.

6 Q. To your knowledge, just to your recollection, did the
7 government ever interview anyone at that institution?

8 A. I don't know.

9 Q. Am I correct that you did mention that to the U.S.
10 Attorney's office during one of your meetings?

11 A. Yeah. I would have said that I went to -- who I had
12 therapy with and where I went to therapy. I gave -- I
13 disclosed that.

14 Q. Did you ever discuss your visits with Dr. Paduch with your
15 aunt?

16 A. Yeah.

17 Um, no, that's a -- that's a poor way to phrase it.

18 Um, so when I was, um -- I was staying in -- the
19 internship that we spoke about earlier was at the Weill Cornell
20 Medical Center. And, um, it was very far from where I live at
21 home, so I stayed with my aunt for, like, four weeks.

22 And after one of the occasions, um, I was 17, this is
23 when I had just seen the -- the -- the pornography, the
24 homosexual pornography. And I don't have anything against
25 anything, but it just stuck out to me.

1 So, I was uncomfortable and I told my aunt that, that
2 night. Um, we actually went out for Chinese food, of all
3 things, and I guess it was kind of an explosion of, like, this
4 happened at the internship today. That's the only thing that I
5 would have discussed with her really, as far as that, and, you
6 know ...

7 Q. And, again, not asking whether it actually happened or not,
8 but is it your recollection that you think that your aunt
9 called your mom about that?

10 A. Yeah. Yeah, I believe that my aunt was concerned.

11 Q. Do you know if, after that, your mom took -- strike that.

12 Do you know if, after that, your mom contacted
13 Dr. Paduch?

14 A. No. She -- she -- well, she asked. She was, like, what do
15 you want me to do? I was, like, I don't know. Well, you've
16 just got to really -- you've got to tell him that you're
17 uncomfortable with that and you're incredibly uncomfortable
18 with that, and I hadn't told her about being masturbated by
19 Dr. Paduch. From her mind, it was seeing somebody else
20 watching porn.

21 And she told me, hey, you should -- you should tell
22 him that you're uncomfortable with that, which I did. I
23 already testified about that earlier.

24 Q. To your knowledge, did the government interview your aunt?

25 A. No.

1 Q. At some point, do you recall the government asking --
2 strike that.

3 At some point, do you recall discussing text messages
4 between you and Dr. Paduch with the government?

5 A. Sorry.

6 Can you repeat that again?

7 Q. Sure.

8 At some point during your meetings with the
9 government, do you recall discussing with them the existence of
10 text messages between you and Dr. Paduch?

11 A. Yep. Yes, sir.

12 Q. And, at some point, did you either offer to give them the
13 text messages or they asked for them?

14 A. Yeah. So how they, um, got, um, those text messages was
15 originally I had -- I -- you know, all this was on an old
16 phone. So, I gave my cellphone to my, um, my attorneys. I
17 don't know how much I should --

18 But, like, yeah, my attorneys, I gave it to them, and
19 then the cellphone was out of my hands. So, my, my -- I guess,
20 my attorneys would have given it or whatever messages were on
21 it to the Department of Justice. But I didn't want that
22 cellphone back, so I just said that I don't have the phone
23 anymore.

24 So, you know, my attorneys who were also on the call
25 says, You guys can figure that out. I mentioned that there

1 were with text messages, never gave it to them. It was already
2 out of my hands at that point.

3 Q. So I just want to break that down into a couple of steps,
4 if that's OK.

5 A. Yeah. Sorry.

6 Q. No, don't apologize, please. No worries.

7 So after the conversation with the government about
8 text messages, that phone was with the lawyers who
9 represented -- who represent you in the civil lawsuit, correct?

10 A. Prior to meeting with the Department of Justice, if memory
11 serves me right on that.

12 Q. OK. So, meaning that before you even met with the
13 Department of Justice, your phone had been given to the lawyers
14 in the civil suit, correct?

15 A. To the best of my knowledge, um, or it could have been
16 after. To be honest, I don't recall.

17 But, yeah, sorry. I can't stand on that one either
18 side.

19 Q. OK. Is the name -- is the short name for that firm PCVA?

20 A. Yes, sir.

21 Q. And is one of your lawyers Mallory Allen?

22 A. That's correct.

23 Q. And am I correct then, just to break it down by steps, then
24 did the government at some point --

25 I don't want to know what you said to your lawyers.

1 A. OK. I've been told that. Thank you.

2 Q. It bears repeating, right?

3 So, do you recall if the government went directly to
4 PCVA or if you went through them?

5 A. So, from my understanding, um, they were, um -- we were
6 kind of on the call together when we had that first phone call
7 with the Department of Justice, from my understanding.

8 We were going to report it locally to, like, the
9 Manhattan police and then, um, the Department of Justice
10 called. So that was my understanding of how it went forward.
11 I kind of did it hand in hand with my lawyers because I -- I
12 don't know how to do it, and it had been something that was
13 pretty -- pretty intimidating for me. So, they kind of did it
14 with me.

15 Q. And, to your understanding, are the text messages that were
16 ultimately given to the government by your lawyers the ones
17 that we looked at earlier this morning or earlier today?

18 A. Yeah. Again, I'm going -- so I gave my phone to my lawyers
19 and I have no idea how -- if they sent the phone to the
20 Department of Justice upon request, if it was sending pictures
21 or files. I have no idea how that was done. That was beyond
22 me.

23 MR. BALDASSARE: Just one moment.

24 (Counsel confer)

25 Judge, I just spoke to the government. I mean, if now

1 is a good time for lunch break, I may be able to trim a little,
2 to expedite things for the jury, if we have the break now.

3 THE COURT: That's fine.

4 Why don't we do that. We'll break for lunch.

5 Just remember, don't discuss the case and keep an open
6 mind, and we'll meet back here at two.

7 All right. Two o'clock.

8 MR. BALDASSARE: Two o'clock.

9 Thank you, Judge.

10 THE COURT: Thanks.

11 (Continued on next page)
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(Jury not present)

THE COURT: You can step down, if you would like.

You can go. We're going to meet again at two.

(Witness temporarily excused)

I want the witness's birth date, and he made a brief reference to his name, redacted from the transcript. So my law clerk will work with the court reporter.

But I did want to, again, consistent with my prior rulings, make that happen, so I want to advise you of that.

MR. XIANG: Thank you, your Honor.

THE COURT: Is there anything else we need to discuss?

MR. XIANG: Not from the government, your Honor.

MR. BALDASSARE: No, Judge.

THE COURT: Thanks.

(Luncheon recess)

AFTERNOON SESSION

2:00 p.m.

(Jury not present)

MR. XIANG: I believe the defense may have one issue before we bring the jury back in.

Over the lunch break, the government communicated with PCVA, the firm that has been mentioned in this trial, and so we are communicating to the court their objection, their continuing objection, to cross-examination questions that would call for any invasion of the attorney-client privilege.

I believe the government's understanding is, based on the order that your Honor has already entered, that the privilege won't be broken or violated in light of that order.

But, at their request, we are putting their continuing objection on the record.

THE COURT: All right. Thank you for doing that.

MR. BALDASSARE: Judge, they can keep telling me not to violate the law, and that's fine with me. I'm not going to to. I know the rules. I'm going to keep going the way I've been going. I think I'm fine.

I have one issue. We actually spoke about this, I think, the very first time we met on this case. Real quickly. There is a laptop and the brand name of the laptop -- I think it's sort of a gaming computer -- the brand name of the laptop is a Predator laptop. I had thought all along we were going to

1 agree to call it something else. The government offered a
2 stipulation on the chain of custody or the authenticity, and
3 for reasons I can't disclose, we didn't agree to that.

4 Now they don't want to agree to not call it or not
5 tell the witness to call it the Predator. They can show it to
6 him. There's got to be another name besides calling it -- I
7 get it. It's called a Predator. But unless we're going to get
8 into gaming computers and the fact that it's called the
9 Predator, I cannot possibly think of something that falls more
10 within 403.

11 It's got the Predator -- I don't know if the court is
12 a fan -- but the Predator alien from the movie, I think, you
13 know, I know they are upset that I didn't stip to it, but that
14 is still no reason to have the agent say this is the Predator
15 laptop.

16 THE COURT: Were you really, I mean --

17 MS. ESPINOSA: Your Honor, all we are planning to do
18 with this is authenticate the two laptops that were seized
19 during the search of the defendant's home. One of the laptops
20 is this Predator laptop. It says Predator on the front with
21 the Predator logo.

22 THE COURT: OK.

23 MS. ESPINOSA: I am not intending to deliberately
24 elicit this is a Predator. When I ask the agent, hand it to
25 him and say, what is this, what do you recognize this to be, he

1 may say the name Predator. It's also written in fairly large
2 letters on the front of the laptop. I have it here, if your
3 Honor would like to take a look at it.

4 THE COURT: Sure.

5 MR. BALDASSARE: What I would say, Judge, I have had
6 plenty of cases where maybe we don't instruct lay witnesses not
7 to say something. I think it's perfectly appropriate to tell
8 an agent -- yeah, I mean, I get it, it says Predator. I don't
9 think it needs to be walked by the jury.

10 MS. ESPINOSA: No.

11 MR. BALDASSARE: I think he should be told, Don't say
12 Predator. This is the computer I seized.

13 THE COURT: I think you can tell the witness, unless
14 he's asked a specific question about the name of the laptop,
15 there is no need to mention the name. I don't see the
16 relevance of that.

17 Can we bring the jury in?

18 (Pause)

19 So, just while we're waiting for the jury -- I'm going
20 to stop talking when they come -- but this new order regarding
21 access to a computer says at least five hours per day including
22 on weekends.

23 Can the BOP -- what time does he get back?

24 What time does he get back from court every day?

25 MS. ESPINOSA: Your Honor, I think it is going to be

1 extremely difficult for them to give him five hours after the
2 trial day ends.

3 MR. BALDASSARE: I don't mean to interrupt.

4 I agree. I guess the question is, we were thinking
5 weekends, or maybe saying something, unless he's in court,
6 because there may be some days we're not sitting.

7 THE COURT: OK. Then I think you need to revise it.

8 MR. BALDASSARE: We'll do a better job.

9 THE COURT: OK.

10 (Continued on next page)

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1 (Jury present)

2 THE COURT: Everyone can be seated. Thank you.

3 You may proceed.

4 (Witness resumed)

5 Whenever you're ready.

6 MR. BALDASSARE: Thank you, Judge.

7 Judge, for expediency and to make sure everything is
8 redacted appropriately, I'm going to use -- the government is
9 going to bring up and work for me the exhibit, Government
10 Exhibit 401, which are the text messages.

11 THE COURT: Very well.

12 BY MR. BALDASSARE:

13 Q. Mr. Lenox, can you see that text message there?

14 A. Yes, sir.

15 Q. I'm going to ask if we could turn to page three.

16 Do you see the date at the top of this page?

17 A. Yes, sir.

18 Q. OK. As of that date, were you 18 years old at some point
19 prior to that date?

20 A. Yeah, yeah, yeah. Yep.

21 Q. So, I am going to endeavor to only look at texts today from
22 when you were 18 years old. OK.

23 If you see any that are when you were a minor, I'm
24 going to ask you to please let me know. OK?

25 A. Yes, sir.

1 Q. OK. I'm going to ask if we can just go to page four.

2 Before we look at that, Mr. Lenox, would you agree
3 with me that as we go through some more of these texts, that
4 during your course of texting with Dr. Paduch, you discussed
5 very intimate health issues about yourself, correct?

6 A. That's correct, sir.

7 Q. And would you also agree with me that you had some fairly
8 friendly exchanges, correct?

9 A. Correct, sir.

10 Q. And would you also agree with me that there was a fair
11 amount of adult joking between these texts?

12 A. Yeah, definitely.

13 Q. So, if we could look on page four, do you see where it says
14 cool?

15 A. Yep.

16 Q. Now is that, that side is you, correct?

17 A. Yeah. Yes, sir. I'm the blue and Dr. Paduch is the clear,
18 yes, sir, on the left.

19 Q. OK. So can you read the cool text for me?

20 A. Yes, sir.

21 Cool, if you and Alex can find a day where you both
22 don't have to stay too late I think that would be a bunch of
23 fun. I'll ask him.

24 Q. And do you remember what you were discussing there?

25 A. No. Maybe about -- um, no, I don't.

1 Q. Was it about getting together socially, or did that have to
2 do with your treatment?

3 A. That would have been -- I would have been suggesting, I
4 would imagine, seeing each other or, like, um, me and Alex and
5 Dr. Paduch, um, yeah, like, like a social non-appointment.

6 Q. And Alex is somebody on your side, a friend or something
7 like that, it wasn't Dr. Paduch's friend, right?

8 A. No. Alex is the lab assistant who I was working with at --
9 at the internship. So, Alex was really, um, always very
10 helpful and very, very nice to me and a little bit closer in
11 age. Um, he would have been, like, like, early 30s.

12 Um, so, I liked him. You know, I spent a month of the
13 internship and, um, I -- I looked up to both of them. So that
14 was me initiating, hey, we should meet up for something.

15 Q. Was this right after the internship or soon thereafter?

16 A. Yeah, this is -- or, at least, I believe that the date you
17 brought up was September 26. So that would have been maybe two
18 or three months after the internship.

19 Q. OK. If we could go to page six, please.

20 Can you read to me your text at the top of this page?

21 A. Yes, sir.

22 Thank you. I will. And, actually, I'm going to see a
23 local urologist Thursday because of insurance coverage. After
24 seeing one of the best, I'm not too excited for it, but I'm
25 trying to somehow get it working again. If you have any ideas,

1 please let me know, but that's my plan for the short-term.

2 Q. OK. And your reference there to seeing one of the best,
3 who was that a reference to?

4 A. Dr. Paduch.

5 Q. If we could look at page seven.

6 Now, you see -- and I think the government went over
7 this with you at the bottom -- you're talking about a super hot
8 Dominican ultrasound tech?

9 A. Yeah.

10 Q. I mean, fair to say that that's you and Dr. Paduch joking
11 around?

12 A. Um, yeah. Yeah, I wasn't too concerned about, um, this
13 line of texting personally. It was, like, um, the other text
14 messages about videos of me jacking off, I felt uncomfortable.
15 But this felt more, like, a friendly joke.

16 Q. If we could look at nine, please.

17 At the bottom of that first blue bubble, that's you,
18 correct?

19 A. Yes, sir.

20 Q. And you're asking Dr. Paduch if you should call the office
21 and make the appointment, correct?

22 A. Yes, sir.

23 Q. OK.

24 A. But, um, just for clarification, not that it matters or
25 anything, but by me, like, should I call the office, it would

1 have meant, like, me or my mom, to me at that time.

2 Q. OK. If we could look at page 15.

3 Can you read the blue bubble that is from you?

4 A. Yeah, sure.

5 I will, what was the testimony about? And I asked my
6 mom, your practice takes 80 percent of our insurance which
7 makes it no problem. Just not the New York Presbyterian.
8 Should I just make it during the day? Don't want to hold you
9 up. I get out of school. Smiley faces.

10 Yeah.

11 Q. And is the discussion of the insurance because you were
12 concerned that insurance coverage might preclude you from
13 continuing to see Dr. Paduch?

14 A. Yeah. Um, it looks like it's, um, to that -- I don't
15 remember how much of an issue the insurance was for us at the
16 time, but just from reading these, maybe they weren't taking
17 very much of our insurance. Um, yeah.

18 Q. If we could look at page 22.

19 Now, does this appear to be a text from you to
20 Dr. Paduch?

21 A. Yep.

22 Q. And October 13, and I'll represent to you that when we look
23 at the next, the prior page, this appears to be from October of
24 2016.

25 So this is a text from you to Dr. Paduch, October 13,

1 2016, at 7:21 a.m.

2 Could you read that text, please?

3 A. Yeah. Sure.

4 On my resume I have the scholarship program I did with
5 you guys and that I'm starting volunteering as an EMT. I want
6 to go into some sort of business degree while taking one
7 science course a year, so if I want to go into med school, I
8 can go straight into working if I'm tired of school. I don't
9 know if you have to include anything about my resume or major.
10 I have to put that on my application. Thank you so much again.

11 Q. If we could just go to the next page.

12 And the prior text was at 7:21.

13 Did Dr. Paduch respond to you?

14 A. Yes.

15 Q. And he responded to you about, I don't know, a little over
16 ten minutes later?

17 A. Yeah, I guess, 20 minutes.

18 Q. And did you find Dr. Paduch to be responsive when you
19 texted him?

20 A. Um, I don't recall particularly. Um, I guess this was on a
21 school day for me, so that's why I would have been texting so
22 early, you know, because high school starts --

23 Q. I'm sorry.

24 Is it fair to say here he's saying do business joking,
25 don't go to med school?

1 A. Yeah, definitely.

2 Q. If we can go to page 31.

3 And in the middle of that is a message from you that
4 we believe we looked at before where you say you travel too
5 much. Throw me in a suitcase. I'm easy enough to fit. When
6 with will you be back? With an emoji, seems to be a smiling
7 face.

8 Did I read that correctly?

9 A. Yes, sir.

10 Q. Is that an example of you and Dr. Paduch joking around?

11 A. Yeah, it seems like it. If I recall what the context of
12 the text message, I wanted to get the letter, so just trying to
13 figure out when he would be back and I could pick that letter
14 up.

15 Q. If we could go to page 44 -- I'm sorry, 43.

16 Now, here on the bottom is a message from you that
17 starts I needed, correct?

18 A. Yeah.

19 Q. And it cuts off at the end, correct?

20 A. Yes, sir.

21 Q. So, I'm going to ask if we can go to page 44, which has the
22 full message.

23 And this is November 16, correct?

24 A. Correct, sir.

25 Q. I believe it is November 16, I will tell you if we look

1 back at November 16 of 2016.

2 Can you read that message, rather?

3 A. Yeah, definitely.

4 I needed to talk to you about the third
5 cavernosometry. I know you said summer, but I would really
6 rather it done -- sorry.

7 I would really rather it done sooner than later so I
8 can tackle it. not as a patient but I'm asking as a friend.
9 It would be really helpful.

10 THE COURT: Speak a little bit slower. I know it's
11 hard. Thank you.

12 THE WITNESS: I'm going to restart from the beginning,
13 if that's OK.

14 THE COURT: Thank you.

15 A. I needed to talk to you about the third cavernosometry. I
16 know you said summer, but I really would rather it done sooner
17 than later so I can tackle it. Not as a patient, but I'm
18 asking you as a friend. It would be really helpful. I'm
19 hooking up with girls at school and I feel good about myself,
20 but it doesn't feel very pleasurable without a solid erection.

21 Q. OK. Now, when you sent this text, were you sending it to
22 Dr. Paduch as only a friend, only as a doctor, or as both, or
23 as some other way you would characterize?

24 A. Yeah. How I would characterize this is, I think I
25 mentioned it earlier, that a lot of the time it felt, like, I

1 was trying to get -- um, I was trying to convince Dr. Paduch
2 that I was having a problem and that this was, like, you know,
3 a real issue for me.

4 So, when I said as a friend, I didn't mean it as,
5 like, a, you know, we're best friends or anything. I meant it
6 as, like, I really need this and I'm, like, I need this fixed
7 and I'm asking for something to be done.

8 Um, so I didn't mean it as, like, we were -- I was 18
9 at the time, so I guess I wasn't very good with my words. But
10 I meant it, like, I really need this, please. I need a test.
11 I need something, please.

12 Q. And did you, in fact, have a second surgery with Dr. Paduch
13 after that text?

14 A. Yeah. We had a second surgery in April of -- of 2017.

15 Q. '17?

16 A. Yes, sir.

17 Q. OK. If we can go to page 51.

18 Can you see this?

19 A. Correct. Yep.

20 Q. And it's dated December 22, 2016, correct?

21 A. Correct, sir.

22 Q. And we looked at this during your direct examination,
23 correct?

24 A. That's correct.

25 Q. OK. And am I correct, do you remember that after you got

1 this picture, you joked about what is that, talked about junk,
2 etc., etc.

3 Remember that?

4 A. Sure, yep.

5 Q. OK. Am I right that after December 22, 2016, you saw
6 Dr. Paduch about another six or seven times?

7 A. I don't know exactly.

8 Q. Do you remember seeing him --

9 Well, let me work it this way.

10 After this is December 22, 2016. Do you recall having
11 surgery with him in April of the following year?

12 A. Correct. So, a few months, four months later, yeah.

13 Q. And do you recall appointments leading up to that surgery
14 in February and March and earlier in April?

15 A. I think that we spoke about it before break. I remember
16 having, like, an MRI done, or I remember going in for that.
17 And I remember, um, I think I maybe went to one appointment
18 after that, at least from the best of my recollection.

19 But those are the appointments that stand out between
20 those, I guess, that timeframe or, I guess, precluding the
21 surgery. Those appointments stand out.

22 Q. And do you recall going to see Dr. Paduch in June and July,
23 after your surgery in April, those two visits?

24 A. Yes, sir.

25 Q. If we can go to page 63, please.

1 So if you could read the top bubble.

2 That's from you, correct?

3 A. Yes, sir.

4 Q. OK. Can you read that?

5 A. Yes, sir.

6 I'll call you after five to review the options, is
7 circumcision that bad? I've done some reading and some guys
8 claim sex is the same while others claim their penis is a
9 sensationless meat stick ...

10 Q. And would you agree with me that that's you joking around
11 with that phrase with Dr. Paduch?

12 A. Yes and no. Um, so I knew that I was going for surgery and
13 I was nervous about it, about all aspects of it. So, the
14 laughing face -- as you can see I texted a lot with those as if
15 I was, I guess, uncomfortable or, I don't know, but, yeah, I --
16 I -- as a physician, I wanted his opinion if that would be a
17 big deal for me or something that was important.

18 Q. If we could go to page 71.

19 Now, we don't have to, but if we go back, we'll see
20 that this text is from May, I believe, May 10 of 2017, and this
21 text at the top cuts off.

22 I'm going to ask if we can go to page 72 to see the
23 full text.

24 If you could read that text?

25 A. Yes, sir.

1 You did, I guess they don't send you around the world
2 for nothing. Emoji. Still waiting to see how masturbating is
3 and what my erections --

4 THE COURT: Sorry. Slow down a tiny bit.

5 Sorry about that.

6 THE WITNESS: Sorry. Bad habit of it.

7 A. Still waiting to see how masturbating is and what my
8 erections are like while standing, but all signs are very
9 positive so far. Thank you so much for performing the surgery.
10 Five hours is a long operation, but if it works as well as I
11 think it will, my life will definitely have been changed in
12 such a huge way. I seriously can't thank you enough.

13 Q. OK. I'm done with 401. Thank you, by the way.

14 Mr. Lenox, would you agree with me that when the
15 defense asked to meet with you, you declined?

16 A. Could you -- I don't --

17 Q. Yeah.

18 A. Yeah, sorry. I don't think I declined.

19 Q. Do you remember declining a request from Dr. Paduch's
20 lawyers to meet with you in advance of trial?

21 A. Oh, OK. No. No, I don't.

22 Q. OK.

23 A. Um, I -- no.

24 Q. Did you ever learn whether or not we tried to interview
25 you?

1 A. From my understanding, somebody reached out to my civil
2 attorneys, um, and they threw it out --

3 Q. Let me stop you there as a courtesy to everyone.

4 I don't want to know anything that your lawyers said
5 to you other than, I guess, if that is how you learned about
6 it, and then nothing further than that.

7 A. I -- I never had any firsthand experience of anybody trying
8 to contact me, no.

9 Q. OK. Only spoke about that with your lawyers?

10 A. Yeah.

11 Q. OK. And were you content to not meet with us before trial?

12 A. Yes, very much so. Not that I have anything against you,
13 but, just, I didn't want to ...

14 Q. I'm sorry. I didn't hear you.

15 A. No, I didn't mean -- in case that sounded like, like, a,
16 no, it was --

17 But, no, I did not want to meet with anybody, um, from
18 Dr. Paduch's side before this. No.

19 Q. OK. Thank you.

20 THE COURT: I think what you missed is he said, Not
21 that I have anything against you.

22 A. Yeah, that's it. Yeah, I didn't mean to say it, like, an
23 aggressive way or, like, you know, nothing against...

24 Q. Thank you.

25 A. Sorry.

1 Q. So, not to ask you to remember the exact date, but tax day,
2 April 15, 2024, do you recall meeting with the government on
3 that day?

4 A. Yes, sir.

5 Q. And do you recall them doing sort of a practice
6 cross-examination as to what might happen when I got up here to
7 cross-examine you?

8 A. Yes, sir.

9 Q. Am I correct that, during that meeting, you told the
10 government that you eventually disclosed this information to
11 law enforcement at the urging of your civil attorneys?

12 A. Yes and no. Um, urging is a tough word. Um, my -- my --
13 and I'm going to try to balance this with what you just advised
14 me with earlier, but, um --

15 Q. And I don't want to interrupt you, but I want us all to be
16 on the same page.

17 I don't want you to tell you anything that you
18 discussed with your lawyer other than what was said in the
19 presence of a third party. So if it's with the government and
20 it has to do with your lawyer, that you can tell us. But if
21 it's just you and your lawyer, don't.

22 A. OK. In that case, to be completely, in transparency, when
23 my lawyers were dialed into the phone call, they pretty much
24 just listened. There really were no discussions or anything
25 like that.

1 Q. OK. But did you say to the government that you decided to
2 disclose this because your civil attorney said something to you
3 to do it?

4 A. Um, yeah. And, again, I'm going to rely on your expertise,
5 but from -- from at least how things were -- were put to me, it
6 was, um, if we're going to do this, we're going to go forward,
7 we may as well do it the right way. And we may as well, you
8 know, not just go civilly, but go criminally as well, so...

9 Sorry. I just want to clarify. It was suggested to
10 me, never pushed upon me or told, hey, you really have to do
11 this. It was, hey, we think you should do this and we're going
12 to be here to support you. So that's how that process started.

13 Q. OK.

14 THE COURT: Sorry.

15 MR. XIANG: We don't have an objection, your Honor.
16 Just so the record is clear, if a question could be posed when
17 the term "it" or "this" is being used either in a question or
18 an answer, what is the "it" that is being referred to?

19 THE COURT: Can you answer what is the "it?"

20 THE WITNESS: I don't recall what I said in regards to
21 it. Sorry.

22 THE COURT: No, it's OK.

23 You said something along the lines of, we'll do it the
24 right way.

25 THE WITNESS: Thank you.

1 A. Do it the right way, it's -- this process, let's, um, let's
2 go forward and do it criminally and -- and civilly.

3 So it was, like, our lawsuit that we were doing
4 against -- that is going on, that not only do we do it civilly,
5 but we pursue it in a criminal manner as well.

6 Q. And during your meeting with the government on April 15, do
7 you remember telling them that your civil lawyer said, if we're
8 going to do it, we might as well go all in?

9 A. If that was my quote, then I would imagine that's correct.
10 Um, I don't remember exactly saying that, but I'm sure I could
11 have said it.

12 MR. BALDASSARE: Mr. Lenox, thank you very, very much
13 for your time.

14 I have nothing further.

15 THE COURT: Any redirect?

16 MR. XIANG: Very, very briefly, your Honor.

17 THE COURT: OK.

18 REDIRECT EXAMINATION

19 BY MR. XIANG:

20 Q. Mr. Lenox.

21 A. Yes, sir.

22 Q. You were asked on cross-examination about the process of
23 getting text messages from your phone.

24 Do you recall those questions?

25 A. Yes, sir.

1 Q. The text messages exchanges that you've testified about
2 today in Government Exhibit 401, when you reviewed them prior
3 to your testimony, did you believe that any of them had been
4 altered in any way?

5 A. No, sir.

6 Q. Had they been doctored in any way?

7 A. No, sir.

8 Q. Was anything missing from within those exchanges, to the
9 best of your memory?

10 A. No, sir.

11 Q. I believe on cross-examination you were asked about
12 conversations that you may have had in therapy in which the
13 therapist suggested to you that you might want to go to law
14 enforcement.

15 Do you recall that testimony?

16 A. Yes, sir. That's correct.

17 Q. And just to remind the jurors, to the best of your memory,
18 when were those conversations that you had with the therapist?

19 A. Yeah. So I saw two therapists, but the first one was in
20 early 2019 or late 2018. Yeah, that's when I -- when I saw a
21 therapist and started doing that process.

22 Q. I believe also in the course of cross-examination you
23 testified that the masturbation appointments that you had with
24 the defendant came up during those therapy sessions.

25 Was that your testimony?

1 A. Yeah. I mentioned those quite a few times at therapy.

2 Q. And just so the record is clear, those memories of what the
3 defendant did to you, according to your testimony, were those
4 memories that you brought into those therapy sessions, or were
5 those memories that were uncovered in the course of those
6 therapy sessions?

7 A. Brought into it. I didn't have to uncover. Um, I -- I --
8 it wasn't very long after what had happened, I guess, in the
9 grand scheme of things, a year and a half. Um, so I didn't
10 have to uncover anything. Everything was still incredibly
11 fresh.

12 Q. And I believe you testified on cross-examination that those
13 memories were, in fact, part of the reason you sought therapy
14 in the first place, is that accurate?

15 A. That's accurate. Yes, sir.

16 Q. Now, finally, Mr. Lenox, I believe you were asked questions
17 on cross-examination about whether, to your knowledge, the
18 doors of exam rooms were locked.

19 Do you recall those questions and that testimony?

20 A. Yes, sir.

21 Q. Focusing on the times when the defendant masturbated you,
22 was the room to those -- I'm sorry -- was the door to those
23 rooms open or closed?

24 A. Closed.

25 Q. Who closed the door?

1 A. Dr. Paduch.

2 MR. XIANG: No further questions.

3 THE COURT: Anything else?

4 Any recross?

5 MR. BALDASSARE: No. Thank you.

6 THE COURT: OK. Thank you, you can step down.

7 Thanks.

8 (Witness excused)

9 Leave everything there. Don't worry about it.

10 THE WITNESS: Thank you.

11 THE COURT: Government can call its next witness.

12 MS. ESPINOSA: The government calls Michael Buscemi.

13 MICHAEL BUSCEMI,

14 called as a witness by the Government,

15 having been duly sworn, testified as follows:

16 THE DEPUTY CLERK: Please state and spell your name
17 for the record.

18 THE WITNESS: Yes. Michael, M-i-c-h-a-e-l, Buscemi,
19 B-u-s-c-e-m-i.

20 DIRECT EXAMINATION

21 BY MS. ESPINOSA:

22 Q. Good afternoon, sir.

23 Where do you work?

24 A. Good afternoon.

25 Federal Bureau of Investigation. The FBI.

1 Q. How long have you worked at FBI?

2 A. 14 and a half years.

3 Q. What's your title there?

4 A. Special Agent.

5 Q. Are you assigned to a particular squad or group at the FBI?

6 A. Yes, the violent crimes against children and human
7 trafficking task force.

8 Q. At a high level, what are your duties and responsibilities?

9 A. Investigation, investigate crimes against children, like,
10 child pornography, distribution, receipt, production,
11 kidnappings and human trafficking, which is forcing victims
12 into forced labor and prostitution.

13 Q. Turning your attention to April 11, 2023, did you
14 participate in a search that day?

15 A. I did.

16 Q. Where did you search?

17 A. A home in Liberty, New York.

18 Q. You said in Liberty, New York?

19 A. Yes.

20 Q. And what type of structure did you search?

21 A. A single-family residence.

22 Q. Did other people participate in the search with you?

23 A. Yes.

24 Q. And were they also from the FBI?

25 A. Yes.

1 Q. What was your role on the search team?

2 A. Search.

3 Q. Approximately what time did you arrive the residence to do
4 the search?

5 A. Approximately six a.m.

6 Q. When you first arrived at the residence, what did you do?

7 A. We established a perimeter and called the residence of the
8 home to effectively come out and surrender.

9 Q. And how many residents were in the home at the time?

10 A. Just one.

11 Q. Who was that person?

12 A. Darius Paduch.

13 Q. Did you and -- how did you come to personally enter the
14 premises?

15 A. Um, after he was secured, the entry team came in and we
16 cleared, cleared the establishment.

17 Q. Was anyone else inside the residence when you entered it?

18 A. No, ma'am.

19 Q. What did you do during the search itself?

20 A. Um, just search for items of the crime.

21 Q. And what, if anything, was done to document the search?

22 A. Normal course of action is evidence is found, it's placed
23 in an evidence bag, it's labeled correctly, and then when we go
24 back to the office, a document is written up about it.

25 Q. Is anything done during the course of the search to

1 document the search as it goes along?

2 A. Labels are placed on the device.

3 Q. Are any photographs taken in the course of the search?

4 A. Yes, ma'am.

5 Q. And did you take photographs during this search?

6 A. I did not.

7 Q. To your knowledge, did someone else take photographs during
8 this search?

9 A. Yes.

10 Q. Now, did you review a number of those photographs prior to
11 your testimony today?

12 A. Yes.

13 Q. If you look there is a binder in front of you, sir.

14 Could you please open that and just flip through the
15 documents inside.

16 Agent Buscemi, do you recognize those documents?

17 A. I do.

18 Q. What are they?

19 A. They are photographs of the residence that we searched.

20 Q. And when you say the residence that we searched, which
21 residence do you mean?

22 A. Darius Paduch's.

23 Q. Are these true and accurate copies of the photos taken
24 during the search of Darius Paduch's residence?

25 A. Yes, they are.

1 MS. ESPINOSA: Government offers Governments Exhibits
2 503 through 511.

3 THE COURT: Any objection?

4 MR. BALDASSARE: No objection.

5 THE COURT: They will be admitted.

6 (Government's Exhibits GX 503-511 received in
7 evidence)

8 MS. ESPINOSA: Mr. Glogoff, could you please pull up
9 Government Exhibit 503 and publish it.

10 BY MS. ESPINOSA:

11 Q. Agent Buscemi, do you recognize this?

12 A. I do.

13 Q. What is this?

14 A. Darius Paduch's residence.

15 Q. Is this the residence that you searched?

16 A. It is.

17 MS. ESPINOSA: Mr. Glogoff, you can take that down
18 now.

19 Could you please pull up what is in evidence as
20 Government Exhibit 505.

21 Q. Agent Buscemi, do you recognize this?

22 A. I do.

23 Q. What do we see in this photo?

24 A. Game room.

25 Q. Did you participate in a search of this room?

1 A. Yes, ma'am.

2 Q. Now, drawing your attention to the screen at the back of
3 this photo, could you describe that?

4 A. It's a computer desk.

5 MS. ESPINOSA: OK. You can take that down,
6 Mr. Glogoff.

7 Could you please pull up Government Exhibit 507.

8 Q. And, Agent Buscemi, what do we see in this photo?

9 A. The same computer desk which we just saw.

10 Q. Take this -- I apologize.

11 Was this taken before, during, or after the search?

12 A. During.

13 MS. ESPINOSA: You can take this down, Mr. Glogoff.

14 Please pull up Government Exhibit 508.

15 Q. Agent, can you please describe what we see in this photo?

16 A. A computer -- a computer monitor and a laptop underneath
17 that.

18 Q. Where was this found?

19 A. In the game room.

20 MS. ESPINOSA: Your Honor, may I approach?

21 THE COURT: You may.

22 Q. Agent Buscemi, I've handed you what is marked for
23 identification as Government Exhibit 1.

24 Do you recognize that?

25 A. Yes, I do.

1 Q. What is it?

2 A. Acer laptop.

3 Q. And where was this laptop found?

4 A. On the computer desk in the game room.

5 Q. And is this the same laptop as the one we see in the
6 photograph here?

7 A. Yes, ma'am.

8 MS. ESPINOSA: Your Honor, may I collect the --

9 THE COURT: Sure.

10 MS. ESPINOSA: Mr. Glogoff, you can take that photo
11 down.

12 Could you please pull up Government Exhibit 509.

13 Q. Agent Buscemi, what do we see in this photo?

14 A. A laptop in a bin.

15 Q. Where was this laptop found?

16 A. Also in the game room.

17 MS. ESPINOSA: And, your Honor, may I approach?

18 THE COURT: You may.

19 Q. Agent Buscemi, I handed you what's marked for
20 identification as Government Exhibit 2.

21 Do you recognize that?

22 A. I do.

23 Q. What is that?

24 A. An ASUS laptop.

25 Q. Where was that laptop found?

1 A. In the game room on top of the bin.

2 Q. Is this the same laptop we see in the photograph here?

3 A. It is.

4 Q. Agent Buscemi, directing your attention to the top of that
5 laptop, do you see a label there?

6 A. I do.

7 Q. Could you please read what it says on that label?

8 A. Dr. Paduch, private property.

9 Q. Thank you.

10 Now, what, if any, steps were taken to secure these
11 computers after they were found?

12 A. They were labeled, placed in evidence bags, and the bags
13 were labeled.

14 MS. ESPINOSA: No further questions, your Honor.

15 THE COURT: All right. Any cross-examination?

16 MR. BALDASSARE: Just briefly, Judge.

17 MS. ESPINOSA: Your Honor, may I approach to collect?

18 THE COURT: You may.

19 CROSS-EXAMINATION

20 BY MR. BALDASSARE:

21 Q. Good afternoon, Agent.

22 A. Good afternoon.

23 Q. When you were on site, you didn't conduct any forensics of
24 any of the laptops on site, correct?

25 A. Correct.

1 Q. And that's normal that you wouldn't do that, correct?

2 A. It depends on the situation. Sometimes we do, do forensics
3 on site, depending on the abundance of evidence that we're --
4 that's at the scene.

5 Q. OK. In this case you didn't?

6 A. Correct.

7 Q. OK. And then after you located the laptops, did you just
8 put them both in evidence bags?

9 A. I -- I don't recall exactly what I did. I might have given
10 them to somebody to do that, but they ended up in the evidence
11 bag.

12 Q. And then where would they go, to the FBI offices?

13 A. Correct.

14 Q. And whatever was going to happen would happen there,
15 correct?

16 A. Correct.

17 Q. OK. The last thing, when you said you went inside the
18 house after you secured Dr. Paduch, is this, like, a Hannibal
19 Lecter situation where we've got to --

20 MS. ESPINOSA: Objection.

21 MR. BALDASSARE: Well, I want to know what "secured"
22 means.

23 THE COURT: Just rephrase it.

24 MR. BALDASSARE: Yeah. All right.

25 Q. When you say secured Dr. Paduch, does that mean just, you

1 know, take him outside, if you're going to --

2 MS. ESPINOSA: Objection. The attorney is testifying.

3 THE COURT: What do you mean by "secure?"

4 THE WITNESS: Just to make sure the scene is safe,
5 that the residence is cleared, scene is safe, Mr. Paduch is --
6 I don't recall if he was in handcuffs, but not a threat to
7 agents on site or himself.

8 MR. BALDASSARE: Thank you.

9 I have nothing further.

10 THE COURT: All right. Anything else from the
11 government?

12 MS. ESPINOSA: No, your Honor.

13 THE COURT: You can step down. Thank you.

14 THE WITNESS: Thank you.

15 (Witness excused)

16 THE COURT: The government can call its next witness.

17 MS. QIAN: Thank you, your Honor.

18 The government calls Dr. Amin Herati.

19 AMIN HERATI,

20 called as a witness by the Government,

21 having been duly sworn, testified as follows:

22 THE DEPUTY CLERK: Please state and spell your full
23 name for the record.

24 THE WITNESS: Amin Herati. A-m-i-n, last name is
25 H-e-r-a-t-i.

1 THE COURT: Good afternoon.

2 THE WITNESS: Good afternoon.

3 DIRECT EXAMINATION

4 BY MS. QIAN:

5 Q. Good afternoon.

6 Dr. Herati, where do you currently work?

7 A. I work in Baltimore, Maryland, in the Johns Hopkins
8 Hospital.

9 Q. What is your position there?

10 A. I am a urologist. I'm an assistant professor of urology.

11 Q. At a very high level, what is the field of urology?

12 A. So urology is a surgical field. We deal with disorders of
13 the kidney, the bladder, the prostate, the ureter, the
14 genitalia, and we encompass all the surgical and medical
15 aspects of those organs.

16 Q. Dr. Herati, do you have a subspecialty within urology?

17 A. I'm fellowship trained in the fields of male infertility
18 and men's health.

19 Q. When you say men's health, can you explain to us what that
20 encompasses?

21 A. Sure.

22 So men's health is a very broad term. It involves any
23 condition that can be affected by testosterone. So we deal
24 with erectile dysfunction, ejaculatory dysfunction, we deal
25 with any condition within sexual dysfunction, such as curvature

1 of the penis, abnormal ejaculation. We also deal with enlarged
2 prostate, low testosterone, pelvis pain disorders. Anything
3 that can be influenced by testosterone, we consider that men's
4 health.

5 Q. Now, how long have you worked as a urologist at Johns
6 Hopkins?

7 A. I started working at Johns Hopkins in 2017.

8 Q. Dr. Herati, can you explain -- describe your educational
9 background to us?

10 A. Sure.

11 So I went to medical school in Kansas City starting in
12 2003. I finished in 2010 from the University of Missouri -
13 Kansas City accelerated BA/MD program.

14 I went to North Shore LIJ, now Northwell, for a
15 urology residency in 2010. I finished that in 2015. I went to
16 Baylor College of Medicine for a fellowship in male
17 reproductive medicine and surgery. And then in 2017, I
18 finished my fellowship and I went to Hopkins to join faculty
19 there.

20 Q. Dr. Herati, just now you referenced completing your
21 residency between 2011 and 2015, as well as your fellowship
22 from 2015 to 2017, correct?

23 A. Correct.

24 Q. Can you explain to us the difference between a residency
25 and a fellowship?

1 A. So a residency is training that encompasses all of urology.
2 We're learning about every condition in the field. We're
3 learning how to take care of patients in the hospital, in an
4 outpatient setting. We're learning all the surgeries and how
5 to manage patients before and after. It's the entire spectrum
6 of urologic conditions that we're managing.

7 Q. Can you explain what is different about a fellowship?

8 A. Sure.

9 So a fellowship is more specialized training. And
10 with the fellowship, we will learn more details, more
11 techniques under a specific condition. So for my particular
12 case, I did male infertility and men's health. I learned all
13 the different microsurgeries for infertility and the surgeries
14 for men's health conditions, such as enlarged prostate or
15 erectile dysfunction.

16 Q. Did you receive any certifications in your chosen medical
17 field?

18 A. Yes. I'm board certified as a urologist.

19 Q. And what is the process of becoming a board certified
20 urologist?

21 A. The requirements for getting board certification is that
22 you have to complete a residency and you have to complete the
23 written boards and the oral boards.

24 Q. Now, did your medical training cease after you completed
25 your fellowship?

1 A. No. The requirements for ongoing certification is that we
2 must continue our education through reading journal articles,
3 attending conferences, and maintaining our educational credits.

4 Q. Earlier you testified that after your fellowship, you
5 started your current position at Johns Hopkins, correct?

6 A. Correct.

7 Q. As part of your medical practice at Johns Hopkins,
8 approximately how many patients do you see in a day?

9 A. 20 to 25.

10 Q. What are the general types of conditions that you treat?

11 A. So I see a number of conditions. The breakdown is one
12 third male infertility, one third are going to be men's health,
13 so that would include erectile dysfunction, ejaculatory
14 dysfunction, Peyronie's disease, and then the other third is
15 going to be pelvic pain disorders.

16 Q. Now, focusing on just your clinical duties at Johns
17 Hopkins, do you hold any clinical leadership roles there?

18 A. So, at John Hopkins, I'm the director of male infertility,
19 the director of men's health. And in the medical school, I'm
20 the course director for the second-year medical students. I
21 direct the urology education for them. I'm also part of the
22 clinical competency committee. I make sure that our residents,
23 when they finish the training, they are competent physicians
24 and they are able to practice. And also, I'm part of the
25 program evaluation committee, which will review the curriculum

1 for the residents and make sure that their educational needs
2 are met.

3 Q. Focusing first on your duties as a professor, can you
4 explain, do you teach a course at Johns Hopkins Medical School?

5 A. Yes. The second-year medical students have a block of
6 classes called a reproductive section of their Genes to Society
7 course. I'm in charge of that.

8 And within that section, I teach a number of classes.
9 I teach the class on the male sexual response, male
10 infertility, erectile dysfunction, BPH, benign prostatic
11 hyperplasia, which is enlargement of the prostate. I teach all
12 of those classes, and then I also oversee the lectures that my
13 colleagues give as well.

14 Q. Now, you also mentioned your position on the clinical
15 competency committee.

16 What are the primary duties and responsibilities of
17 this committee?

18 A. So the clinical competency committee will evaluate each
19 resident year by year. We have a number of different matrices
20 that we will evaluate each resident. We look at their clinical
21 skills, their clinical knowledge, interpersonal communication,
22 professionalism, and make sure that at each level of the
23 development, they are reaching the milestones that we expect
24 them to reach.

25 Q. What are your specific duties and responsibilities as a

1 member of the clinical competency committee?

2 A. I work with the residents that are in the first, second,
3 and third year of their training. And so I will make sure
4 that, as they are moving from each year, that they are reaching
5 their milestones and directly observing their clinical skills
6 and their communication to know that they are achieving those
7 milestones.

8 Q. And, just to be clear, these residencies are in which field
9 of medicine?

10 A. Urology.

11 Q. Now, in this role, approximately how many residents have
12 you, whose training have you overseen?

13 A. We train three residents per year and it's a six-year
14 program at Hopkins. So, currently we have 18 residents. But
15 I've been there for seven years, so there have been a lot of
16 residents that have come and gone. I would say approximately
17 30, 30 to 40.

18 Q. Are you also involved in the training of fellows?

19 A. Yes.

20 Q. What is the focus of the fellowship you're in charge of?

21 A. So, I am the co-director of the men's health and sexual
22 dysfunction fellowship that's through the Sexual Medicine
23 Society of North America. And my co-director of the fellowship
24 is Dr. Arthur Burnett.

25 Q. What are your primary duties and responsibilities as the

1 co-director of the fellowship?

2 A. The fellows that come through will scrub with me on cases
3 that involve erectile dysfunction. So I have cases where we're
4 treating men with erectile dysfunction and putting in penile
5 prosthesis, so they will scrub with me on those cases. They
6 will work with me on infertility surgeries and also attend my
7 clinics as I work these patients up so they can get experience
8 through training.

9 Q. In your role as co-director of the fellowship, how many
10 fellows have you trained approximately?

11 A. Approximately five.

12 Q. I'm going to turn your attention now to academic
13 publications.

14 Have you heard of the term medical journal?

15 A. Yes.

16 Q. What is it?

17 A. So a medical journal is a collection of articles that are
18 published, oftentimes on a monthly basis, and they are
19 typically peer-reviewed. And a reviewer would go in, and a
20 reviewer is not related to the article and who is often unaware
21 of who the author is. They will review the article to that
22 make sure that it meets the scientific merits to be published.

23 Q. You mentioned the term peer-reviewed.

24 Can you just explain that for us, please?

25 A. Peer-reviewed means that there are reviewers who will

1 examine the article to make sure there are no major
2 deficiencies of the article and no major statistical flaws,
3 make sure that the study was done correctly. And if there were
4 any limitations, they will ask the authors to clarify those,
5 and then they will report back. And if the reviewers think
6 that the paper is acceptable for publication, they will accept
7 the publication, or they may say that the paper is not
8 acceptable.

9 Q. And who are among the reviewers for these peer-reviewed
10 journals?

11 A. The reviewers are people who are experts in the field who
12 have published on the topics.

13 Q. Are you currently a reviewer for any journals?

14 A. Yes.

15 Q. Which ones?

16 A. I've reviewed recently for a number of different journals.
17 I've reviewed for the Prostate Journal, I've reviewed for
18 Fertility Sterility, Human Reproductive, Urology, Journal of
19 Urology, American College of Obstetrics and Gynecology, Urology
20 Case reports, there are many, many more.

21 Q. Now, have you yourself ever authored any articles that have
22 been published in any peer-reviewed medical journals?

23 A. Yes.

24 Q. Approximately how many articles?

25 A. Close to 60.

1 Q. What are some of the topics that you have focused on in
2 your published articles?

3 A. So the publications span the range of men's health and male
4 infertility. I've published on the management of
5 Klinefelter's, I have published on telemedicine and access to
6 care for people who are dealing with sexual medicine
7 conditions. On the use of antidepressants for men undergoing
8 sexual dysfunction treatment. That paper has been accepted but
9 will be published soon. A number of case reports. The
10 spectrum is there. BPH articles, erectile dysfunction, and
11 male infertility.

12 MS. QIAN: At this time, the government moves to
13 qualify Dr. Herati as an expert in the field of urology.

14 THE COURT: Any objection?

15 MR. BALDASSARE: No objection.

16 THE COURT: He'll be so qualified.

17 BY MS. QIAN:

18 Q. Dr. Herati, outside of this case, are you aware of Darius
19 Paduch?

20 A. Yes.

21 Q. How are you aware of Darius Paduch?

22 A. Dr. Paduch and I spent six months working together when I
23 was a resident at North Shore LIJ.

24 Q. What did you do during those six months?

25 A. I worked in his lab.

1 Q. What did you do in this lab?

2 A. We worked on two projects.

3 One was a study looking at the tissue, the penile
4 tissue of men who were to undergo erectile dysfunction surgery.
5 And our project was just to map out where microRNAs were
6 identified within the tissue.

7 And then the other was to analyze the microRNAs, which
8 are small little RNA pieces that are in the sperm of men with
9 abnormal sperm morphology.

10 Q. And how close are you to Dr. Paduch?

11 A. We have not communicated in several years.

12 Q. Now, in preparing to testify here today, have you
13 interviewed any witnesses in this case?

14 A. No.

15 Q. Are you aware of who they are?

16 A. No.

17 Q. Have you sat through any witness testimony?

18 A. No.

19 Q. Have you reviewed any patient medical records in this case?

20 A. I have not.

21 Q. Has the government provided you with any details about what
22 any witness in this case has alleged to have occurred?

23 A. No.

24 Q. Are you aware of any press or news reporting relating to
25 the allegations in this case?

1 A. I have seen what's been in the news.

2 Q. What is the extent of your knowledge of what you have seen
3 in the news?

4 A. My understandings are there that are patients who were
5 under the age of 18 who came in. One of them came in to work
6 with Dr. Paduch as a 16-year-old, and he had gone through
7 two years of training with him, and there had been some sexual
8 impropriety during that two-year experience.

9 Q. To be clear, when you were testifying here today regarding
10 your urological practices, what will your testimony be based on
11 today?

12 A. The testimony will be based on my clinical experience, my
13 training, guidelines, and recent publications.

14 Q. Now what, if any, type of compensation are you receiving
15 for testifying here today?

16 A. \$500 an hour.

17 Q. And does this amount that you get paid depend in any way on
18 the outcome of this trial?

19 A. No.

20 Q. Dr. Herati, are you familiar with the term standard of
21 care?

22 A. Yes.

23 Q. What is the standard of care?

24 A. If I had to summarize it, I would say if there were 100
25 people who were experts in a room, if at least 51 of them

1 agreed that something is the right way to do something, that
2 would be considered the standard of care.

3 MR. BALDASSARE: Judge, if we could be heard briefly
4 at the sidebar on the standard of care.

5 THE COURT: Sure.

6 All right. If you want all to stand and stretch, feel
7 free.

8 (Continued on next page)

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1 (At the sidebar)

2 MR. BALDASSARE: Judge, this one is on me for not
3 bringing it up sooner. There's a lot going on.

4 We have agreed on an instruction regarding the
5 standard of care. I was originally going to ask that it be
6 given before and after Dr. Herati's completes his testimony. I
7 realize that as soon as he said it.

8 I'm wondering if it could be given now.

9 THE COURT: This is on consent, this language?

10 MR. XIANG: The language is on consent, your Honor.
11 As to timing, I'll defer to Ms. Qian.

12 MS. QIAN: I mean, it's up to your Honor.

13 I think we can for the sake of clarity, we can just go
14 through it as we're going to be talking a lot about what are
15 medically appropriate and inappropriate practices.

16 I think the instruction can stand to wait until the
17 conclusion of that testimony.

18 THE COURT: Would you rather me give it now?

19 MR. BALDASSARE: Yes, because I think his whole --

20 THE COURT: OK.

21 MR. BALDASSARE: I think of lot of his testimony -- I
22 may come back and ask for it again, I don't know -- but I think
23 it really has to come in. A lot of the testimony is standard
24 of care. I mean, that is what we know it is going to be about.
25 We agreed on that language, the typed part there, the pen, and

1 we agreed on it. I just think that --

2 Look, it's Friday, Judge. They are going to hear
3 this. They are going to go home over the weekend. I think
4 it's important that they know this, because I believe that the
5 government's direction of this case is going to be this is the
6 standard of care, he deviated from it.

7 THE COURT: Sounds like it's on consent. I understand
8 you would have preferred I give it later. I'm happy to give it
9 now.

10 MR. HAWRILUK: Your Honor, if the witness can pull the
11 microphone closer to his mouth.

12 THE COURT: Sure.

13 (Continued on next page)

1 (In open court)

2 THE COURT: So, folks, you are about to hear testimony
3 which will use the phrase "standard of care". You are not
4 required to find what the standard of care is in the urology
5 setting. If you do make such a conclusion, I instruct you that
6 a finding by you that Dr. Paduch deviated from the standard of
7 care is not, standing alone or in and of itself, sufficient to
8 establish any element of the charged offense.

9 If you find that the government has provided
10 sufficient evidence of a standard of care and that Dr. Paduch
11 deviated from it, you may consider that evidence as relevant to
12 the defendant's intent or other elements of the charged
13 offenses.

14 All right. You may proceed.

15 I'm just going to ask you to get a little closer to
16 the mic, perhaps.

17 Thank you very much.

18 MR. BALDASSARE: I'm having trouble hearing. I
19 apologize.

20 THE COURT: OK. I've said this before, if anyone has
21 trouble hearing us or if your computers aren't working, just
22 raise your hand. Thanks.

23 THE WITNESS: Is this better?

24 THE COURT: I think that's better.

25 Thank you.

1 MS. QIAN: Thank you, your Honor.

2 BY MS. QIAN:

3 Q. Dr. Herati, before just now, we discussed what is the
4 standard of care.

5 My question to you now is, are you familiar with what
6 the standard of care in the field of urology and, in
7 particular, in the subspecialty of men's health and male
8 infertility?

9 A. Yes.

10 Q. And how are you familiar with the standard of care in this
11 field?

12 A. I would qualify that with, through my training and my
13 experience, having gone through a fellowship and having gone
14 through conferences to understand what other urologists are
15 doing, that I have learned what the practice patterns are of
16 most urologists to understand how they practice.

17 Q. Now, are you familiar with an organization called the
18 American Urological Association?

19 A. Yes.

20 Q. What is it?

21 A. The American Urological Association is a governing body
22 that oversees urologic care, research, and they will give us
23 policy. They will help direct things at a very high level so
24 that we, as urologists, can practice more seamlessly.

25 Q. Are you a member of the American Urological Association?

1 A. I am.

2 Q. Are you familiar with the clinical guidelines that have
3 been published by the American Urological Association?

4 A. Yes.

5 Q. Who are the authors on those guidelines?

6 A. The authors of guidelines are experts in the fields. So it
7 depends on what the condition is, but they will invite authors
8 to come in based on their publications, their training, and
9 their experience.

10 Q. Based on your training and experience as a urologist,
11 generally speaking, what would the AUA, meaning the American
12 Urological Association, guidelines represent?

13 A. So the guidelines represent the recommendations for how a
14 urologist should practice.

15 People can deviate from those guidelines if they think
16 that it is warranted on a case-by-case basis. But, generally,
17 it's intended to be a framework for urologists to use in their
18 care of patients.

19 Q. Dr. Herati, are you familiar with the concept of consent in
20 the medical context?

21 A. Yes.

22 Q. What is consent?

23 A. So consent is a process of explaining what the procedure
24 is, what the benefits are, what the risks are, and allowing a
25 full discussion of alternatives to that procedure or that

1 intervention that a patient may be undergoing, and then getting
2 their written consent.

3 Q. For what types of examinations or procedures would consent
4 typically be necessary?

5 A. We typically get consent for anything that is more than
6 just communications. If we're doing a procedure on a patient
7 or doing a surgery on a patient, then we have to get consent
8 for those things.

9 Q. In your practice of treating male infertility and other
10 men's health issues, what are some typical procedures that
11 would require consent?

12 A. So, for male infertility procedures, if we're doing
13 anything invasive, such as sticking a needle in a patient to
14 express sperm from their testicle or if we're opening their
15 scrotum to identify the testicle or there is to drain the sperm
16 from the testicle epididymis. Those would be example
17 procedures of what would require consent.

18 For men's health, we do a number of things in the
19 office that would require consent. We, in some cases, inject
20 the penis with a medication, and that would require consent.
21 We will take the patients to the operating room to operate on
22 their prostate, on their penis for erectile dysfunction. All
23 those require consent. Those are some examples.

24 Q. Now, how much information do you need to disclose to the
25 patient regarding what will be done in order to obtain consent?

1 A. We want the patient to be fully informed so that they can
2 make the decision, with our guidance, for what the procedure
3 is, what the risks are, the benefits, and the alternatives.

4 Q. Now, if a patient is a minor, from whom would you obtain
5 the consent?

6 A. If the patient is a minor, the parent or guardian.

7 Q. Now, would both the patient and the patient's parent or
8 guardian be present during the explanation of the procedure?

9 A. Yes.

10 Q. And would the minor patient have an opportunity to agree or
11 deny, agree to, or deny a particular procedure?

12 A. Yes.

13 Q. As a physician, have you ever treated a patient anywhere
14 not in a medical clinic or at a hospital?

15 A. No. Well, sorry, yes. I have taken care of two patients
16 in their house.

17 Q. Did you say two patients?

18 A. Two patients during my training.

19 Q. What were those circumstances?

20 A. One was a gentleman in his 90s who had had a recent
21 catheter placed in his lower abdomen, and because of the COVID
22 pandemic, I did not feel comfortable with him coming into the
23 clinic. So I went to his house to exchange his catheter.

24 And the other was a patient who was discharged from
25 the hospital with incorrect tubing. So I had to go to his

1 house and reconnect the tubing from the drainage from his
2 kidney coming out the back.

3 Q. And were those visits documented in the medical records?

4 A. Yes.

5 Q. Have you ever treated a patient in your home?

6 A. No.

7 Q. Why not?

8 A. I would not feel comfortable with a patient coming to my
9 house.

10 Q. If you had treated a patient in your home, would you
11 document that in the medical records?

12 A. Yes.

13 Q. I'm going to now ask you some questions regarding some
14 conditions that you treat.

15 Are you familiar with the term erectile dysfunction?

16 A. Yes.

17 Q. What is -- well, why don't we, can you define for us
18 erectile dysfunction?

19 A. Sure.

20 So erectile dysfunction refers to the inability to
21 obtain and/or maintain an erection sufficient for a sexual
22 performance.

23 Q. What are the most common causes for erectile dysfunction?

24 A. The causes can be psychological, they can be neurologic,
25 they can be vascular, they can be metabolic, they can be

1 structural. Those are the broad categories.

2 Q. Now, when confronted with a patient with erectile
3 dysfunction issues, what are the first steps that a urologist
4 would take to go about diagnosing the degree and cause of the
5 erectile dysfunction?

6 A. The first part of the evaluation is to obtain a history to
7 understand when the condition started, what are the
8 circumstances that precipitated it, did it start suddenly or
9 gradually. We want to know about what type of erectile
10 dysfunction the patient is experiencing, difficulty obtaining
11 or maintaining. We want to know about their relationship
12 history with their partner, if that is contributing. We want
13 to know about any psychosocial stress that could be influencing
14 the erectile dysfunction. We will also administer
15 questionnaires as well as part of that.

16 Q. Are there any other initial steps that you would take other
17 than obtaining a medical history?

18 A. In addition to obtaining the medical history, we will also
19 do a focused urologic exam.

20 (Continued on next page)

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25

1 Q. Dr. Herati, earlier you testified about the AUA clinical
2 guidelines, correct?

3 A. Correct.

4 Q. Are aware whether the AUA has put out guidelines on the
5 diagnosis and treatment of erectile dysfunction?

6 A. They have.

7 MS. QIAN: Mr. Glogoff, can you please pull up for the
8 witness, the parties, and the Court only what's been marked for
9 identification as Government Exhibit 901.

10 Q. Dr. Herati, do you recognize the document that's on your
11 screen?

12 A. Yes.

13 Q. What is it?

14 A. It's the American Urological Association erectile
15 dysfunction guidelines.

16 Q. Is this considered an authority that a urologist would rely
17 upon to determine the reasonable standard of care?

18 A. Yes.

19 Q. Is it widely accept authority in the urological community?

20 A. Yes.

21 Q. Did you rely in part on these guidelines in reaching your
22 opinions today?

23 A. Yes.

24 Q. Directing your attention now to guidelines statement 2 --

25 THE COURT: Are you going to seek to admit it, or no?

1 MS. QIAN: Your Honor, I believe under the rules I am
2 allowed to read from it.

3 THE COURT: Yes, that's true. You may proceed.

4 Q. Drawing your attention now to guidelines number --
5 statement 2 --

6 MS. QIAN: Mr. Glogoff, you can scroll down to, I
7 think, the next page.

8 THE COURT: Just to be clear, the rule allows, if
9 admitted, it can be read. I don't know if you were seeking to
10 admit the entirety of the document.

11 Is there any objection to that?

12 MR. BALDASSARE: Which exception, the learned
13 treatise?

14 THE COURT: Exactly. 803(18) as a learned treatise or
15 periodical or pamphlet.

16 It doesn't need to be received as an exhibit into
17 evidence, but it must be admitted.

18 So just to be clear, is there any objection to the
19 admission of this portion of the document?

20 MR. BALDASSARE: Yes, Judge. The rule, we all just
21 looked at it. The document --

22 THE COURT: Fine. You may proceed. It will be
23 admitted, but it won't be technically received as an exhibit.

24 Please proceed.

25 MS. QIAN: Thank you, your Honor.

1 Q. Now, directing your attention, Dr. Herati, to guidelines
2 statement 2, it states: For the man with ED, validated
3 questionnaires are recommended to assess the severity of ED to
4 measure treatment effectiveness and to guide future management.

5 Did I read that correctly?

6 A. Yes.

7 Q. What does ED stand for in this statement?

8 A. Erectile dysfunction.

9 Q. What is a validated questionnaire?

10 A. Validated questionnaire are questionnaires that will assess
11 the severity of symptoms. They will go through what's called a
12 Likert scale so that patients can self-select how severe their
13 symptoms are based on the question.

14 These questionnaires are validated, which means that
15 they have been tested, and they are reproducible, so if the
16 same questionnaire is given to a patient two different dates
17 and the condition has not changed, it will get approximately
18 the same score.

19 Q. Now, you also testified that initial an diagnostic step
20 would involve a focused urological exam, correct?

21 A. Um-hum.

22 Q. Can you describe what that would consist of.

23 A. Sure. As part of any visit, we will assess the vital
24 signs, so I'll make sure that the patient's blood pressure,
25 heart rate are assessed. We will do a head-to-toe evaluation

1 to see if the patient is obese. We will look at -- after we
2 have done the general assessment, we will do a focused urologic
3 assessment, which involves the patient dropping their trousers
4 and their undergarments, and then we will look at the
5 genitalia. We will look at the penis. We will look at the
6 opening of the penis, called the urethral meatus, the opening
7 of the urethra, where the urine passes through. We will
8 examine the consistency of the penis. We will see how much
9 elasticity it has or how rigid it is, and we will feel for
10 plaques in the penis, and then we will also examine for any
11 curvature that may be present in the penis, and we will also
12 examine the scrotum to look at the consistency of the
13 testicles, the present of abnormal blood vessels that may be in
14 the scrotum called varicocele veins. We will also assess for
15 the presence of the vas deferens, which is the tube that
16 carries the sperm from the testicle to the outside world.

17 MS. QIAN: Mr. Glogoff, you can take off the document.
18 Thank you.

19 Q. When you are referring to just now regarding the
20 examination of the patient's genitals region, how is a patient
21 dressed during his exam?

22 A. So a patient will drop trousers, so they will keep their
23 shirt on, they will keep their slacks on, but they will just
24 lower their pants and undergarment.

25 Q. When you're conducting an exam of the patient's penis, is

1 the penis flaccid or erect?

2 A. Flaccid.

3 Q. What is the medical reason for why the examination should
4 be conducted while the penis is in the flaccid state?

5 A. One of the conditions that can cause erectile dysfunction
6 is a scar tissue condition called Peyronie's Disease. With
7 that condition it's characterized by scar tissue or plaque that
8 can be felt only through a flaccid penis. It would be very
9 unusual to feel that through a rigid penis. You have to feel
10 the soft tissue. If the penis is distended and rigid with an
11 erection, it can be hard to feel. You may miss a plaque.

12 MS. QIAN: Your Honor, may I approach the witness?

13 THE COURT: You may.

14 Q. Dr. Herati, I just handed you an item that's been marked as
15 Government Exhibit 3.

16 Dr. Herati, what is Government Exhibit 3?

17 A. This is a model of the penis, the scrotum, and that's
18 basically it. It has a prosthesis within it, and it comes from
19 a called from a company called Coloplast, which is a maker of
20 prosthetics.

21 MS. QIAN: The government offers Government Exhibit 3.

22 MR. BALDASSARE: No objection.

23 THE COURT: Admitted.

24 (Government Exhibit 3 received in evidence)

25 Q. Now, Dr. Herati, using Government Exhibit 3, can you please

1 demonstrate for us how you would go about checking for

2 Peyronie's?

3 A. To exam for Peyronie's we will grab the head of the penis,
4 and then we will give it a stretch, and then we will run our
5 fingers in a pinching manner up and down the length of the
6 penis to feel for plaques that may be on the top half of the
7 penis, and then we will also feel for plaques on the
8 undersurface. But we use a pinching manner to feel the full
9 length of the penis. We will also see if there is any rigidity
10 to it or elasticity.

11 Q. Again, this examination is conducted while the penis is in
12 the flaccid state, correct?

13 A. Correct.

14 Q. As you're conducting this physical exam, what is the
15 standard practice regarding glove wearing?

16 A. For a sensitive exam -- we wear gloves for all sensitive
17 exams.

18 Q. In addition to taking a medical history and a physical
19 exam, are there any other initial diagnostic steps that would
20 be taken?

21 A. It depends on the severity of the patient's condition and
22 other associated findings. In general, we will also assess a
23 testosterone level, which is a blood test. We also may use
24 additional tests, such as an injection of the penis to
25 understand this there is a curvature condition and assess the

1 severity of the curvature condition.

2 Q. Just now you mentioned that you may also test for a
3 testosterone level in a patient. How is that test conducted?

4 A. We will send a patient to the lab, and we will instruct
5 them to go to the lab and give a sample of blood before 10 a.m.

6 Q. Based on your training and experience, as well as your
7 reading of the published literature in this area, is semen
8 analysis a medically valid way to test for a testosterone
9 level?

10 A. No.

11 Q. Now, based on your training and experience, are there any
12 diagnostic procedures for which a patient would need to obtain
13 an erect penis in the office?

14 A. Yes. So if they have the scar tissue condition called
15 Peyronie's Disease, we will want to quantify the angle
16 curvature and the degree of curvature, so we will administer an
17 injection of a medication to stimulate the erection so we can
18 objectively assess the curvature.

19 If the patients require more advanced treatment of
20 their erectile dysfunction, then we may also bring them in to
21 teach them how to either inject the penis or place a pellet in
22 their urethra to get an erection, but we will do that in the
23 office, and they will get an erection from that treatment.

24 Q. If it become medically necessary for a patient to obtain an
25 erection for the purpose of diagnostic procedures, what are the

1 medically accepted ways for a patient to obtain an erection for
2 these procedures?

3 A. The most common way is, we will inject a medication into
4 the side of the penis. Those medications will work directly on
5 the blood vessels that are in the cylinders. So on this model
6 we would inject into the sides of the penis with a very small
7 needle, a medication that would dilate the blood vessels to
8 allow the erections to occur.

9 If the patient did not want to use that method or they
10 were phobic of needles, then we can give them the option of
11 taking oral medication or self-stimulation to get to that
12 point.

13 Q. When you say self-stimulation, what are you referring to?

14 A. Masturbation.

15 Q. Now, if a patient elects to self-stimulate, is there any
16 medical reason for a urologist to stay in the room while the
17 patient self-stimulates to obtain an erection?

18 A. No.

19 Q. Are there any medical reasons why a urologist should not
20 stay in the room while the patient self-stimulates?

21 A. The process of getting an erection can be anxiety
22 provoking, and having a medical professional in the room can
23 add to that anxiety.

24 Q. Have you heard of any urologist staying in the room while a
25 patient self-stimulates?

1 A. I have not.

2 Q. You also mentioned earlier that a common way to induce an
3 erection in the office is to provide an injection of
4 medication, correct?

5 A. That's correct.

6 Q. What is the injection intended to do?

7 A. The injection introduces a medication that acts on the
8 blood vessels within the cylinders of the penis. Those
9 medications will dilate the blood vessels, which will bring
10 more blood into the penis, expand the cylinders that are in the
11 penis, and allow an erection to occur. By that expansion the
12 veins will also be compressed so the blood doesn't exit.

13 Q. Was providing a patient with an injection a procedure for
14 which patient consent is required?

15 A. Yes.

16 Q. What typically happens after a patient is given this
17 injection?

18 A. So after we administer the injection, we will tell the
19 patient to self-stimulate, and we will give them five to 10
20 minutes of privacy, and we will come back and reassess their
21 degree of curvature, if present, their erection, quality, and
22 characteristics. And then also for doing an ultrasound, we
23 will do an ultrasound assessment at the baseline and at an
24 interval follow-up.

25 Q. Are there any medical reasons for the doctor to remain in

1 the room with the patient while the injection is making its way
2 through?

3 A. There wouldn't be a necessity for the physician to stay.

4 Q. Now, you mentioned that the patient is often directed to
5 self-stimulate after the injection is given?

6 A. Um-hum.

7 Q. Are there any reasons for a doctor to manually masturbate a
8 patient, meaning stroking the patient's penis with a purpose of
9 obtaining an erection after the patient was given an injection?

10 A. No, there would not be a necessity.

11 Q. Are there any medical reasons why a doctor should not
12 masturbate a patient in that circumstance?

13 A. The act of stimulating another patient's penis or genitalia
14 could be construed as a sexual act, and for that reason the
15 patient and the doctor should not engage in that type of
16 interaction or relationship.

17 Q. Are there any medical reasons why a doctor should not
18 masturbate a patient?

19 A. In addition to that, the urologist being in the room can
20 also add stress and anxiety for the patient, which can give
21 false positive results on the ultrasounds.

22 Q. What does false positive mean in that context?

23 A. If the patient has high anxiety and they don't respond to
24 the medication because their anxiety is suppressing their
25 erection, we may get to the point of diagnosing a patient as

1 having erectile dysfunction when the problem was never the
2 erectile dysfunction. It was anxiety causing the erectile
3 dysfunction.

4 Q. Now, what would happen if a patient cannot achieve an
5 erection after an initial injection?

6 A. Our practice is to give another dose of the medication.

7 Q. What if a patient is still unable to achieve an erection
8 after a second injection and after an opportunity to
9 self-stimulate?

10 A. That would be meaningful and that would suggest that the
11 patient is incapable of achieving an erection, and that would
12 be the end of the exam.

13 Q. Now, what may be the cause of the erectile dysfunction if a
14 patient cannot obtain an erection after two doses of injection?

15 A. If they are unable to achieve an erection, it could be from
16 their anxiety or their having such strong negative input and
17 suppressing the erectile process. It could also be due to
18 vascular reasons, either there is insufficient arterial flow
19 into the penis, or the veins that need to collapse to trap the
20 blood within the penis, veins are leaky and the blood is going
21 right back out.

22 Q. Now, if a patient cannot obtain an erection, even after two
23 doses of injection and self-stimulation, would it then become
24 medically appropriate for a urologist to manually masturbate
25 the patient to assist that patient in obtaining an erection?

1 A. No.

2 Q. In the context of needing to induce an erection for the
3 purpose of diagnosis, are there any reasons why a doctor should
4 not masturbate a patient, even if injections fail?

5 A. The medication is intended to stimulate the blood vessels
6 directly, and the medication is intended to work with minimal
7 stimulation. So a patient is capable of self-stimulating to
8 the point of getting erection, and a urologist should not be
9 needed in that process.

10 Q. Based on your training and experience, if the patient did
11 not respond to two doses of injection and self-stimulation, is
12 it likely that a doctor masturbating -- manually masturbating a
13 patient will be able to induce an erection in that patient?

14 A. No.

15 Q. Why not?

16 A. If their condition is severe enough that they are not
17 responding to that medication, then it is typical beyond the
18 limits of what stimulation can achieve.

19 Q. Would it be medically appropriate to manually stimulate a
20 patient's prostate to assist the patient in obtaining an
21 erection?

22 A. No.

23 Q. Again, in the context of needing to induce an erection for
24 diagnostic purposes, are there any reasons why a doctor should
25 not be stimulating a patient's prostate for the purpose of

1 inducing an erection?

2 A. So the stimulation of the rectum or prostate is intended to
3 potentially increase arousal. But with the medication, that's
4 bypassing the arousal step and it's going directly to the
5 tissue of the penis. So you are taking the arousal step out of
6 the sexual response and stimulating the blood vessels directly.

7 Q. Just to clarify, where is the prostate located?

8 A. The prostate is located -- can I show you on this model?

9 Q. Absolutely.

10 A. Behind the scrotum there is a patch of skin called the
11 perineum. Behind the perineum is the rectum.

12 Q. Where is the prostate?

13 A. The prostate is located within the rectum. So if we were
14 to use this model, it's really not a perfect model to show
15 that, but it would be within the rectal vault, on the -- it's
16 called the anterior surface or towards the front of the
17 patient.

18 Q. How would a person stimulate the prostate?

19 A. The prostate could be stimulated by putting a finger in the
20 rectal vault and pressing on the prostate.

21 Q. If a patient is able to respond, meaning obtain an erection
22 due to a physician stimulating him, meaning masturbating him,
23 what is the likelihood of the patient being able to obtain an
24 erection either through self-stimulation or through the use of
25 an injection?

1 A. The patient would likely be able to achieve that same
2 erection through self-stimulation or the injection.

3 Q. Earlier you discussed that one of the procedures for which
4 a patient would need to obtain an erection is to assess the
5 curvature of a penis for the purpose of diagnosing a condition
6 called Peyronie's, correct?

7 A. Correct.

8 Q. Just to be clear on the record, what is Peyronie's?

9 A. Peyronie's is a scar tissue condition of the two cylinders
10 that fill with blood during an erection. If those cylinders
11 develop scar tissue, it can contract that cylinder and cause
12 curvature.

13 Q. Earlier you had demonstrated for us the physical exam
14 conducted while the penis is in the flaccid state to assess
15 plaques, correct?

16 A. Um-hum.

17 Q. Approximately how long does that procedure take?

18 A. The examination?

19 Q. Approximately how long does the palpating of the penis
20 take, the touching of the penis take?

21 A. A few seconds.

22 Q. Now, once a penis has been induced to obtain an erection,
23 how do you go about examining the penis to diagnose Peyronie's?

24 A. If the penis had a bend to it, then we have a retractor
25 that we can use to assess the angle of the curve when we will

1 document the direction of the curve. So we will assess the
2 curve direction and degree of curvature.

3 Q. Does the diagnosis of Peyronie's at this stage require
4 touching the penis?

5 A. There can be some palpation involved to determine how rigid
6 the penis is.

7 Q. Can you demonstrate for us?

8 A. Sure. If the penis has curvature or scar tissue, we may
9 see if we can -- for example, if it's bending backwards, we may
10 see if we can continue to bend to see if there is a potential
11 weakness in that area, so we may palpate in that context.

12 Q. Again, how long would this take?

13 A. A few seconds.

14 Q. Will the doctor's hand be gloved or ungloved during this
15 examination?

16 A. Gloved.

17 Q. Earlier you also mentioned a procedure called a penile
18 ultrasound. Can you explain to us, what is a penile
19 ultrasound?

20 A. Sure. A penile ultrasound is a diagnostic procedure. We
21 use an ultrasound wand to examine the penis at the baseline.
22 We will exam the tissue. We will scan the penis, starting from
23 the base of the penis and go all the way to the tip, and we
24 will look at the consistency of the tissue and evaluate for any
25 scar tissue or plaque that would look white and have an echo

1 behind it, and also look at the blood vessels to see what the
2 blood vessels look like at a baseline.

3 Q. Again, as you are taking that initial baseline scan of the
4 penis, what is the thing that is touching the penis?

5 A. A probe.

6 Q. Is the physician's hand touching the penis?

7 A. In some cases we may rest a finger -- if the probe is here,
8 we may rest a finger on the lower abdomen to be able to
9 stabilize the probe. But, in general, the only thing in
10 contact with the penis is the probe so that the probe can see
11 directly into the tissue.

12 Q. Approximately how long does it take for the probe to scan
13 the penis for the baseline scan?

14 A. The baseline scan was quick, within typically two to three
15 minutes.

16 Q. Now, if the patient is able to obtain an erection, how
17 would a urologist then go back performing a penile ultrasound?

18 A. Once we inject the medication, the patient has achieved an
19 erection, the first step is, we will assess the degree of
20 rigidity, which is a subjective assessment. We will assess for
21 curvature. And then we will scan the penis at different
22 phases, so this would be the base of the penis, this would be
23 the middle, and this would be what's called the distill tip or
24 the furthest point, and we will scan at one location to assess
25 the diameter of the blood vessels in the penis, and we will

1 assess the speed of blood flow through there as well.

2 Q. What is the purpose of a penile ultrasound. What is it
3 intended to study?

4 A. The penile ultrasound can be used to identify structural
5 deformities, such as scar tissue. It can also look at the
6 degree of stiffness of the tissue. One of the main reasons
7 that we use it for is to study the blood vessels and the flow
8 of the blood vessels, especially with stimulation with the
9 medication that would dilate the blood vessels.

10 Q. Earlier you said that one of the things that you would do
11 after a patient obtains an erection for the purpose of the
12 penile ultrasound is to assess the rigidity of the erection,
13 and that that would be a, quote, subjective assessment.

14 What does that mean?

15 A. We will look at two things. We will look at the degree of
16 rise, what's called tumescence, so we will be able to assess
17 how much of a rise there is with the erection. Also, we can
18 see if the penis will buckle with the limited movement. If the
19 penis is strong, it doesn't move, it has a fully rigid
20 erection. If the penis bends, that may be a partial erection.

21 Q. Can you demonstrate, again, the bend test?

22 A. Yes. I can inflate this to a full rigid erection. Is that
23 OK?

24 Q. Please do.

25 A. This would be a partial erection. So if this was, let's

1 say, a 30 percent tumescence, meaning it's only a third of the
2 way up, it can also have some bendability to it. But if the
3 penis was fully rigid, then it would have 100 percent
4 tumescence and have a full rise, and it wouldn't be able to
5 buckle in that way. A few more pumps will get it there. It
6 doesn't bend when I put pressure on it. We can use that as a
7 subjective assessment to understand how strong the erection is.

8 Q. Approximately how long is a physician's hand in contact
9 with the penis in order to determine whether it bends?

10 A. A few seconds.

11 Q. Now, is there any medical reason why a doctor would need to
12 see the penis ejaculate for the purpose of a penile ultrasound?

13 A. No. That could actually disrupt the study because
14 ejaculation will end the sexual response cycle and it will
15 cause constriction of the blood vessels. We want to study how
16 the blood vessels respond to the medication. If they
17 ejaculate, that could cause false negative results.

18 Q. We are moving off of penile ultrasounds now.

19 Is there any medical reasons why a urologist
20 diagnosing a patient with erectile dysfunction only, meaning no
21 other symptoms, any medical reason for that urologist to
22 perform a rectal exam on the patient?

23 Q. Now, in what circumstances, if any, would it be medically
24 appropriate for a patient with erectile dysfunction to receive
25 a rectal exam?

1 A. In many cases men presenting with erectile dysfunction are
2 of an age where they also have enlarged prostate or BPH. In
3 those cases we will do that as part of the examination for
4 screening for prostate cancer. If they have urinary symptoms,
5 where they have got burning with urination, weak stream,
6 incomplete emptying, frequency and urgency of urination, and we
7 think that they may have a condition called prostatitis, which
8 is inflammation of the prostate, then we can do a rectal exam
9 to see if the prostate is tender because that inflammation of
10 the prostate can also cause erectile dysfunction.

11 Q. When you say that people of a certain age may have enlarged
12 prostates, so a rectal exam may be necessary, what is that age,
13 approximately?

14 A. Large prostate or BPH increases per decade of life, but we
15 start seeing it by the fourth or fifth decade.

16 Q. Meaning a person in their forties or fifties?

17 A. Forties or fifties, yes.

18 Q. If a rectal exam is necessary, how would that be conducted?

19 A. So there are two ways we are taught in the medical field to
20 perform it. Either the patient is in what's called the lateral
21 decubitus position, which means that they are on their side
22 with their knees tucked up to their chest. That will allow the
23 urologist easy access to reach the rectum where they can then
24 feel the prostate, or we have the patient drop trouser, lean
25 over the table with the bend at the hip, and to keep their legs

1 underneath them, and then we will feel the prostate at that
2 point.

3 Q. Approximately how fast is this exam?

4 A. Two to three minutes.

5 Q. Is there any medical need for the patient to be erect
6 during a rectal exam?

7 A. No.

8 Q. I am going to now ask you some questions regarding the
9 treatment of erectile dysfunction.

10 THE COURT: Let me know whenever you think we should
11 take our afternoon break. Just let me know.

12 MS. QIAN: This might be a good time.

13 THE COURT: Why don't we do that.

14 Remember, folks, keep an open mind and don't discuss
15 the case.

16 (Jury not present)

17 THE COURT: Does 10 minutes work?

18 (Recess)

19 THE COURT: Are we ready for the jury?

20 (Jury present)

21 THE COURT: You may proceed.

22 MS. QIAN: Thank you, your Honor.

23 Q. Before the break, Dr. Herati, I was going to start asking
24 you some questions regarding the treatment for various types of
25 erectile dysfunction.

1 Now, if your diagnosis that the erectile dysfunction
2 is psychological in nature, what would be the medically
3 appropriate course of treatment?

4 A. Part of the treatment is education, so we will educate the
5 patient on what psychogenic erectile dysfunction is. We will
6 help them understand that a lot of their symptoms are related
7 to stress, anxiety, and it may not be anxiety that they may
8 think that -- it is typically anxiety, which is what people
9 always think is a racing heart or beads of sweat, but it can be
10 subconscious anxiety.

11 We can also offer them some therapies as a mental
12 crutch or placebo effect, but the most effective therapy is to
13 refer them to a sex therapist or psychologist.

14 Q. You mentioned the word psychogenic erectile dysfunction.
15 What does the word psychogenic means?

16 A. Psychogenic refers to inhibition of the arousal center of
17 the brain that is responsible for starting the process of
18 getting an erection. When there is inhibition coming from
19 different parts of the brain, it can stop the nerves that are
20 responsible from signaling from the arousal center to the
21 spinal cord and then out to the genitalia. What it would
22 present with would be a patient who has normal erections with
23 self-stimulation, but has abnormal erections for sexual
24 intercourse or sexual performance.

25 Q. When you say that a urologist may prescribe some therapy as

1 a, quote, mental clutch, what are you referring to with the
2 words therapy in that?

3 A. What I'm referring to in that is Viagra or Cialis.

4 Patients often get the prescription, they will leave the pill
5 bottle by their bedstand, and they won't turn to it. But as
6 long as they know that they have it, they have confidence that
7 they can have intercourse.

8 Q. Just briefly, what is Viagra or Cialis?

9 A. So those drugs belong to a family of drugs that are called
10 Phosphodiesterase 5 Inhibitors. And what that enzyme does is
11 it breaks down one of the substrates that's responsible for
12 creating dilation of the blood vessels. By inhibiting that,
13 breakdown of that compound, you keep the your blood vessels
14 dilated longer.

15 Q. What is the purpose of someone taking Viagra or Cialis?

16 A. People who take Viagra and Cialis are benefiting from the
17 fact that the blood vessels will stay dilated longer when the
18 erection is dissipating due to the supply what's called nitric
19 oxide. If they are low on nitric oxide, that could potentiate
20 or increase the activity of nitric oxide.

21 Q. You mentioned towards the end of your answer that there
22 might be a different type of therapy that would be more
23 beneficial, correct. What is that therapy?

24 A. For psychogenic erectile dysfunction, a sex therapist or
25 sex psychologist has been shown in studies to achieve a better

1 response than medication alone.

2 Q. Now, what is the difference in training between a sex
3 therapist or a sex psychologist and a urologist?

4 A. So a sex therapist or sex psychologist has psychology
5 training. They can work with patients on their depression,
6 their anxiety, and their behavioral approaches to sexual
7 dysfunction. A urologist is trained on the medical and
8 surgical aspects of its management.

9 Q. Are urologists trained in psychology or sufficiently
10 trained in psychology to be able to manage psychogenic erectile
11 dysfunction on their own?

12 A. We have very basic training.

13 Q. Now, based on your training and experience, would practice
14 obtaining an erection help a patient suffering from psychogenic
15 erectile dysfunction?

16 A. If obtaining erections on a more regular basis can help
17 them overcome their anxiety, it's possible. However, the
18 patients that have psychogenic erectile dysfunction often have
19 situational erectile dysfunction, and the practice would need
20 to be in the area that they are having problems.

21 Q. So, typically, if practice is warranted at all, where
22 should it be done?

23 A. In the privacy of the patient's home.

24 Q. Would it ever be medically appropriate for a urologist to
25 masturbate a patient to help that patient practice obtaining an

1 erection?

2 A. No.

3 Q. Are there any reasons why a urologist should not be part of
4 a patient's erection practice?

5 A. Two reasons. One, the introduction of a urologist or
6 medical professional in that process can introduce anxiety, and
7 that can suppress the erection, and the second is that would be
8 considered a sexual act on a patient.

9 Q. Earlier you had mentioned prescribing Cialis or Viagra to
10 treat psychogenic erectile dysfunction, correct?

11 A. Correct.

12 Q. Are you also familiar with the term psychotropic drugs?

13 A. Yes.

14 Q. Is that term defined?

15 A. Psychotropic drug refers to a medication that alters the
16 chemistry of the mind.

17 Q. Is clonazapem a type of psychotropic drug?

18 A. Yes.

19 Q. What does clonazapem do?

20 A. It belongs to the family of medications called
21 benzodiazepines, and it has an inhibitory effect.

22 Q. Inhibiting what?

23 A. Inhibiting stress, anxiety.

24 Q. Is Valium a type of psychotropic drug?

25 A. Yes.

1 Q. Again, what does Valium do?

2 A. It's also a member of the benzodiazepine family.

3 Q. How does it alter a brain's chemistry?

4 A. So the medications that are benzodiazepines have what's
5 called a GABAergic effect, and GABAergic has an inhibitory
6 effect on the nerves that they are working on.

7 Q. In practice what does that mean?

8 A. It inhibits nerve excitation or nerve signal.

9 Q. Would it be medically appropriate for a urologist to
10 prescribe clonazepam to treat psychogenic erectile dysfunction?

11 A. That is not my practice nor the practice of urologists that
12 I know.

13 Q. Would it be medically appropriate for a urologist to
14 prescribe Valium to treat psychogenic erectile dysfunction?

15 A. Also not my practice or any urologist that I know.

16 Q. Are there any reasons why you do not prescribe clonazepam
17 or Valium to treat psychogenic erectile dysfunction?

18 A. I don't have sufficient training in psychology or
19 psychiatry to manage the adverse effects and drug interactions
20 that can potentially come with long-term use of those drugs.

21 Q. Who would have sufficient training to be able to prescribe
22 psychotropic medication to treat psychogenic erectile
23 dysfunction?

24 A. Psychiatrists and psychologists have the adequate training.

25 Q. Do doctors have additional due-diligence requirements that

1 they must conduct or meet on an ongoing basis before they can
2 prescribe psychotropic medication?

3 A. Yes. As part of that process, when we are discussing
4 treatment options with patients an option like that is
5 discussed or offered. We will review a list of all the
6 medications that a patient is taking to make sure that they are
7 not getting a similar medication or a medication that may
8 potentially conflict.

9 Q. What must a doctor do as the patient is taking psychotropic
10 medication?

11 A. So members of the benzodiazepine family are controlled
12 substances, so we need to see the patient every six months and
13 assess their treatment response before we can continue the
14 medication.

15 Q. Now, based on your training and experience, can erectile
16 dysfunction be caused by incorrect masturbation technique by
17 the patient?

18 A. In rare circumstances it can.

19 Q. Can you describe for us those rare circumstances.

20 A. Sure. If a patient breaks their penis, that would be a
21 surgical emergency and that can lead to long-term erectile
22 dysfunction. And in some cases a blood vessel can also be
23 ruptured between the cylinders of the penis and the top half of
24 the penis. If that happens, that can introduce scarring that
25 would then become what is called Peyronie's Disease.

1 Q. If a patient says that they are generally stroking their
2 penis in an up-and-down fashion, is there such a thing as a
3 correct angle or incorrect angle?

4 A. Not to my knowledge.

5 Q. Is there such a thing as correct hand or finger placement
6 versus incorrect hand or finger placement?

7 A. Not to my knowledge.

8 Q. Is there such a thing as correct frequency versus incorrect
9 frequency?

10 A. We have frequencies that we use for vibratory stimulation
11 if we are trying to stimulate ejaculation, but for the purposes
12 of masturbation, no.

13 Q. For the purposes of masturbation?

14 A. No.

15 Q. Based on your training and experience, would it be
16 medically appropriate for a urologist to observe how a patient
17 masturbates to make sure that they are doing it correctly?

18 A. No.

19 Q. So then how would a urologist be able to diagnose a patient
20 who may be incorrectly masturbating?

21 A. We can elicit that information through a history.

22 Q. If a urologist believes that a patient's erectile
23 dysfunction is a result of incorrect masturbation, what would
24 be the medically appropriate treatment?

25 A. If we think that their problem is from incorrect

1 masturbation, that would be a behavioral problem, and we can
2 refer them to a sex therapist or psychologist to review the
3 behavioral aspects.

4 Q. Would it ever be appropriate for a urologist to manually
5 masturbate a patient to teach the patient proper masturbation
6 skills?

7 A. No.

8 Q. Are there any reasons why a doctor should not be
9 demonstrating masturbation on a patient?

10 A. The primary reason why a urologist should not be doing that
11 is because that would be a sexual act on a patient.

12 Q. You said that was the primary reason. Are there other
13 reasons?

14 A. Another reason is, the introduction of a physician or
15 urologist can introduce anxiety for the patient, and that can
16 make that whole process uninterpretable.

17 Q. Would it be ever appropriate for a urologist to masturbate
18 himself to demonstrate proper masturbation skills to a patient?

19 A. No.

20 Q. Are there any reasons why a urologist should not be
21 demonstrating masturbation on himself?

22 A. That would be inappropriate exposure, and a urologist or
23 physician should never expose themselves to a patient.

24 Q. Are you familiar with the term Fleshlight?

25 A. Yes.

1 Q. What is it?

2 A. A Fleshlight is a cylindrical device that men use for
3 masturbation.

4 Q. Have you ever seen one?

5 A. No.

6 Q. Based on your training and experience, could it ever be
7 medically appropriate for a urologist to prescribe or recommend
8 the use of Fleshlight to treat psychogenic erectile
9 dysfunction?

10 A. There are potential benefits to that if a patient uses that
11 at home.

12 Q. Are you aware of any urologist who actually prescribes or
13 recommends the use of a Fleshlight to patients with psychogenic
14 erectile dysfunction?

15 A. No.

16 Q. If a patient's erectile dysfunction is structural, would
17 masturbation help -- would more frequent masturbation help to
18 treat those structural issues?

19 A. No.

20 Q. Why not?

21 A. If the problem is structural, then it's a scar tissue
22 condition and that is the reason for their erectile
23 dysfunction. More frequent stimulation would not reverse or
24 correct that.

25 Q. So would a doctor manually masturbating a patient who has

1 structural erectile dysfunction be helpful to that patient?

2 A. There should not be any benefit.

3 Can I expand on that point?

4 Q. Absolutely.

5 A. There are stretches that we do for the treatment of
6 structural conditions. There is something called penile
7 modeling, where we will bend the penis in the opposite
8 direction in an erect state or recommend that a patient do
9 that. And that's an exercise a patient will then do at home to
10 correct the structural condition, but it's not masturbation.
11 It's just a bend.

12 Q. Using Government Exhibit 3, can you demonstrate what that
13 bending technique is.

14 A. Sure. We will tell patients who have the structural
15 abnormality called Peyronie's, it is three times a day we want
16 their penis to be on maximum stretch and held there for 30
17 seconds. So they will grab the head of the penis and give it a
18 full stretch and hold it in that stretched position for 30
19 seconds. When they have an erection, if their penis was curved
20 upwards, we will tell them to bend it the opposite direction as
21 much as they can tolerate, hold it in that position for 30
22 seconds.

23 Q. Thank you.

24 Earlier you mentioned one of the common causes of
25 erectile dysfunction is neurologic?

1 A. Correct.

2 Q. What does that mean?

3 A. Neurologic erectile dysfunction refers to abnormal nerve
4 signals going to the penis through what are called the
5 parasympathetic nerves. Those are the nerves that initiate the
6 erection.

7 Q. Would manually stimulating or masturbating a patient who
8 has neurologic erectile dysfunction be helpful to that patient?

9 A. The data would not support that.

10 Q. Why is that?

11 A. If the problem is neurologic, the problem is oftentimes
12 further beyond the penis. It is at the level of the prostate.
13 In men who have had their prostate removed as part of a
14 prostatectomy, prostate removal surgery as part of their
15 bladder removal surgery, or if they have had any injury to
16 their spinal cord and stimulation of the genitalia will not
17 affect or benefit that.

18 Q. Now, you also mentioned earlier that another cause, common
19 cause of erectile dysfunction is vascular, correct?

20 A. Correct.

21 Q. What does vascular erectile dysfunction mean?

22 A. So vascular erectile dysfunction means one of two things or
23 a combination. It's insufficient arterial flow, meaning the
24 arteries that feed the genitalia have plaques with them called
25 atherosclerosis and that limits the blood flow to the penis, or

1 the veins that are in the penis are not collapsing with an
2 erection the way that they should collapse, and the blood will
3 exit out those veins.

4 Q. Would manually masturbating a patient who has vascular
5 erectile dysfunction be helpful to that patient?

6 A. No. For the same reasons that would not help a patient
7 with neurologic erectile dysfunction. The problem is a
8 systemic problem, and their blood vessels are blocked further
9 back than their penis.

10 Q. Earlier you also mentioned metabolic erectile dysfunction.
11 What is metabolic erectile dysfunction?

12 A. So metabolic erectile dysfunction refers to, most commonly,
13 diabetes. So when people have elevated blood sugar levels, the
14 blood sugar would not allow the cells that are in the lining of
15 the blood vessels to continue to release nitric oxide that is
16 needed to keep the blood vessels dilated, to keep the erection
17 going, so it can suppress the initiation and the maintenance of
18 the erection.

19 Q. Now, would manually masturbating a patient with metabolic
20 erectile dysfunction be helpful to that patient?

21 A. No.

22 Q. And why is that?

23 A. The problem intrinsic to metabolic is not going to be
24 overcome by masturbation.

25 Q. Based on your training and experience, are the diagnostic

1 tests for erectile dysfunction any different for minor patients
2 who have erectile dysfunction?

3 A. Similar diagnostic procedures can be done to minors.

4 Q. Based on your training and experience, are the treatments
5 for erectile dysfunction any different for minor patients who
6 have erectile dysfunctions?

7 A. Similar options can be offered to minors.

8 Q. Are there any special precautions when it comes to
9 diagnosing or treating minors with erectile dysfunction?

10 A. The special precautions that one would need to be mindful
11 of, the parent or guardian needs to be present during that
12 conversation, and the nature of the condition also needs to be
13 considered. The patients often have psychogenic erectile
14 dysfunction, but they may have organic erectile dysfunction as
15 well due to structural, metabolic, or hormone deficiencies.

16 Q. Earlier you had mentioned some procedures for a diagnosis
17 of erectile dysfunction that requires a patient to obtain an
18 erection, correct?

19 A. Correct.

20 Q. Now, how, if at all, different are those procedures done on
21 a minor patient?

22 A. They are done in a similar way. Because we don't expect
23 them to have plaques within blood vessels due to
24 atherosclerosis, they often need less medication. If we do any
25 sort of diagnostic procedure, it is done with a parent or

1 guardian in the room or an observer -- a chaperone, rather.

2 Q. As I understand it just now, you are saying that the
3 difference is that you need to have a parent or a guardian or
4 some other chaperone in the room for the procedure, is that
5 correct?

6 A. Correct.

7 Q. Now, for how long has the need for a parent, guardian, or
8 other chaperone been required during the time that you've been
9 practicing medicine?

10 A. As long as I've been in practice.

11 Q. How long has that been?

12 A. Since 2010.

13 Q. Now, if a minor patient does not want their own parent or
14 guardian in the room for privacy reasons, what is the standard
15 of care for how to proceed in that circumstance?

16 A. We will bring in a chaperone into the room.

17 Q. Can a minor opt out of having any chaperone at all?

18 A. No.

19 Q. Now, would it be medically appropriate for a urologist to
20 be more involved in a minor's masturbatory practices?

21 A. I'm sorry. Can you repeat the question.

22 Q. Sure. Would it be medically appropriate for a urologist to
23 be more involved in a minor's masturbatory practices?

24 A. No.

25 Q. Why not?

1 A. That would be behavioral intervention, and that would be
2 something that the sex therapist or psychologist can discuss
3 with the patient.

4 Q. Are there any reasons why a urologist should not
5 demonstrate masturbation on a minor patient?

6 A. That would be considered a sexual act on a patient.

7 Q. Any other reasons why?

8 A. It can also introduce anxiety in the patient.

9 Q. I am going to now turn our focus to a different disorder.

10 Are you familiar with the term ejaculatory
11 dysfunction?

12 A. Yes.

13 Q. What is ejaculatory dysfunction?

14 A. So, ejaculatory dysfunction is a range of conditions. It
15 can encompass either no ejaculation, premature ejaculation, or
16 delayed ejaculation.

17 MS. QIAN: Mr. Glogoff, can you please pull up for the
18 witness, the parties, and the Court only what's been marked for
19 identification as Government Exhibit 902.

20 Q. Dr. Herati, do you recognize this document?

21 A. Yes.

22 Q. What is it?

23 A. It's the American Urological Association guidelines on
24 disorders of ejaculation.

25 Q. Is this an authority that a urologist relies on to

1 determine their reasonable standard of care for the treatment
2 and diagnosis of ejaculative dysfunctions?

3 A. Yes, it is.

4 Q. Is it a widely accepted authority in the urological
5 community?

6 A. Yes.

7 Q. Did you rely in part on these guidelines in reaching your
8 opinions today?

9 A. Yes.

10 MS. QIAN: The government offers to admit, but not to
11 publish, Government Exhibit 902.

12 THE COURT: Any objection?

13 MR. BALDASSARE: No objection.

14 THE COURT: You may proceed.

15 Q. Dr. Herati, I am going to direct your attention to the list
16 of authors here.

17 Do you see Darius Paduch listed as an author?

18 A. Yes.

19 Q. I will turn your attention to page 2 of this document.

20 Under guidelines statement number 1 it reads: Lifelong
21 premature ejaculation is defined as poor ejaculatory control
22 associated bother, and ejaculation within about two minutes of
23 initiation of penetrative sex that has been present since
24 sexual debut.

25 Did I read that correctly?

1 A. Yes.

2 Q. I am now also going to read guidelines statement 2, which
3 says: Acquired premature ejaculation is defined as
4 consistently poor ejaculatory control, associative bother, and
5 ejaculation latency that is markedly reduced from prior sexual
6 experience during penetrative sex.

7 Did I read that correctly?

8 A. Yes.

9 MS. QIAN: You can take this down, Mr. Glogoff.

10 Q. The condition of premature ejaculation is concerned with
11 the length of time to ejaculate in what types of settings?

12 A. Sexual performance.

13 Q. Is the conditions of premature ejaculation concerned with
14 the length of time to ejaculate in a medical setting?

15 A. No.

16 Q. Why not?

17 A. The definition relies on sexual performance, sexual
18 intercourse, masturbation, any sexual act, but not in the
19 office setting.

20 Q. Based on your training and experience, as well as the AUA
21 guideline on the diagnosis and treatment of ejaculatory
22 dysfunction, how would a urologist go about diagnosing
23 premature ejaculation?

24 A. The diagnosis is made similar to erectile dysfunction. We
25 obtain a history, and we use validated questionnaires to assess

1 how long it takes a patient to reach climax.

2 Q. Any other diagnostic tools?

3 A. There are some additional diagnostic tools that we can use
4 if a patient has delayed or absent ejaculation.

5 Q. Focusing right now just on premature ejaculation, would an
6 initial diagnostic step include a physical exam at all?

7 A. Yes.

8 Q. What would that physical exam consist of?

9 A. We would evaluate the sensitivity -- we will do a focused
10 exam on the genitalia. We will again look at the structure of
11 the penis to determine if there are any abnormalities with scar
12 tissue or anything that could indicate a coexisting diagnosis
13 of erectile dysfunction. We would also look at the scrotum to
14 assess for consistency of the testicles, the blood vessels.

15 Q. Are there any differences in the way you conduct a physical
16 exam to diagnose a patient with erectile dysfunction versus
17 ejaculatory dysfunction?

18 A. It would be similar.

19 Q. Now, do the guidelines suggest anywhere that to diagnose
20 premature ejaculation a urologist should observe in the office
21 how long it takes for a patient to ejaculate?

22 A. No.

23 Q. Why should a urologist not do that?

24 A. The diagnosis is made based on how long it takes for a
25 patient to reach ejaculation and their performance of sexual

1 activity with a partner or during self-stimulation at home.

2 Q. Are there any scientific reasons or medical reasons why it
3 would not be helpful for a doctor to observe a patient's
4 ejaculatory process in the office to diagnose premature
5 ejaculation?

6 A. Introduction of anxiety or stress on the patient can alter
7 the results and make the history taking more difficult to
8 discern.

9 Q. Would it be medically appropriate to diagnose premature
10 ejaculation by calculating the length of time a patient takes
11 to ejaculate while being stimulated by a penile vibrator?

12 A. No.

13 Q. Why not?

14 A. The diagnosis depends on the sexual performance. It would
15 not be tied to the vibrator.

16 Q. I will ask you some more questions about penile vibrators
17 at a later point.

18 For now, focusing just on premature ejaculation, what
19 are some causes for premature ejaculation?

20 A. The causes can include neurologic reasons. So if a patient
21 has an imbalance in terms of how much, what's called dopamine,
22 which is a nerve transmitter, or oxytocin, those imbalances can
23 lead to premature. If the nerves that are going to the
24 genitalia are hypersensitive, that can also lead to premature
25 ejaculation. Then in a subset of guys, when they have

1 coexisting erectile dysfunction, they may try to speed up the
2 process of reaching climax so they can complete ejaculation
3 before their erection is lost.

4 Q. Now, you mentioned just now one of the causes for premature
5 ejaculation is potentially hypersensitivity of the penis,
6 correct?

7 A. Correct.

8 Q. How would a urologist go about measuring whether a person
9 suffers from hypersensitivity?

10 A. We have a test that can assess vibratory sensation. It's
11 called a biothesiometer. And using this device we can assess
12 when a patient feels the vibration of a device that looks like
13 a pencil placed on the penis. So we will increase the
14 frequency of vibration until the patient feels the vibration.
15 If they feel it earlier than expected, that can determine the
16 hypersensitivity.

17 Q. While a urologist uses a biothesiometer on a patient, is
18 the patient awake, is the patient -- are their eyes opened?
19 Are their eyes closed? What is the state of the patient?

20 A. The patient has to be awake to report when they feel the
21 vibration, and we will increase the amplitude or increase the
22 dial of our biothesiometer until a patient reports that they
23 can feel the vibration, but they typically cannot see what the
24 gauge is.

25 Q. They cannot see the gauge.

1 A. They cannot see the gauge.

2 Q. How perceptible is the amount of vibration on a
3 biothesiometer?

4 A. We increase the dial until the vibration is barely
5 perceptible.

6 Q. You said barely perceptible?

7 A. Correct.

8 Q. Is it possible for a patient to mistake a biothesiometer
9 probe with a penile vibrator?

10 A. No.

11 Q. Why not?

12 A. A biothesiometer probes looks like a pencil and the
13 vibration that comes through it is minute. A penile vibrator
14 has a handle that will hit the penis at a set frequency and
15 amplitude.

16 Q. Is it possible for a person to ejaculate from the use of a
17 biothesiometer?

18 A. Not to my knowledge.

19 Q. Can premature ejaculation be caused in part by
20 psychological factors?

21 A. Yes.

22 Q. If the patient's premature ejaculation is psychological in
23 part, what would be appropriate treatments?

24 A. One option is to refer them to a psychologist or a sex
25 therapist to practice behavioral interventions to try to stop

1 the ejaculatory process.

2 Q. Now, would practice masturbating and ejaculating be
3 medically appropriate treatment for a premature ejaculation?

4 A. It could in a subset of patients.

5 Q. What is that subset?

6 A. There are some patients who at the beginning of their
7 sexual debut, they do not know how to inhibit the sexual
8 response. With more practice and more stimulation, they could
9 potentially learn to inhibit the process more.

10 Q. In that subset of patients who are suffering from
11 psychological premature ejaculation, where should the practice
12 occur?

13 A. At home.

14 Q. Is there any medically appropriate reason for the practice
15 of masturbating and ejaculating occur in the office?

16 A. No.

17 Q. Any medical reason for a urologist to be present while the
18 patient is practicing masturbating and ejaculating?

19 A. No.

20 Q. Any reasons why they should not be in the room?

21 A. It can introduce anxiety and stress for the patient.

22 Q. Any medical reasons why a urologist should be assisting the
23 patient in masturbating or ejaculating for the purpose of
24 practicing for a patient who is suffering from psychological
25 ejaculatory dysfunction?

1 A. A urologist assisting in that process could be construed as
2 sexual misconduct or a sexual act on a patient.

3 Q. Any other reasons why it would be inappropriate?

4 A. The ultimate goal of seeing the physician is to get help so
5 the patient can have more independence and freedom from their
6 condition at home. So what we want to do is to get the patient
7 be able to have the ability to reach ejaculation in a desirable
8 way on their own.

9 Q. Now, if the premature ejaculation is neurologic in nature,
10 would practice masturbating and ejaculating help in that
11 circumstance?

12 A. It would not.

13 Q. And if the premature ejaculation is due to hypersensitivity
14 in the penis, would practice masturbating and ejaculating help?

15 A. I would not expect it to help.

16 Q. I am going to direct your attention now to delayed
17 ejaculation.

18 MS. QIAN: Mr. Glogoff, if we can please pull up for
19 the witness, the parties, and the Court only what's been marked
20 for identification as Government Exhibit 902. You can go to
21 page 5 of that exhibit.

22 Q. Dr. Herati, I am going to direct your attention to
23 statement 16 and 17.

24 I will read guidelines statement number 16: Lifelong
25 delayed ejaculation is defined as lifelong, consistent,

1 bothersome inability to achieve ejaculation or excessive
2 latency of ejaculation despite adequate sexual stimulation and
3 the desire to ejaculate.

4 Statement number 17 reads: Acquired delayed
5 ejaculation is defined as an acquired consistent, bothersome
6 inability to achieve ejaculation or an increased latency of
7 ejaculation, despite adequate sexual stimulation and the desire
8 to ejaculate.

9 Did I read those two statements correctly?

10 A. You did.

11 Q. Now, the condition of delayed ejaculation is concerned with
12 the length of time to ejaculate in what types of settings?

13 A. This would be during sexual activity or sexual performance.

14 MS. QIAN: Mr. Glogoff, you can take down Government
15 Exhibit 902.

16 Q. Do the guidelines suggest anywhere that to diagnose delayed
17 ejaculation a urologist should observe in the office how long
18 it takes for a patient to ejaculate?

19 A. They do not mention that.

20 Q. Are there any scientific reasons why it would not be
21 helpful for a doctor to observe a patient's ejaculatory process
22 in the office for the purpose of diagnosing delayed
23 ejaculation?

24 A. Introducing the urologist or a physician could add stress
25 and anxiety, and that can be a cause of delayed ejaculation, so

1 it could give you a false positive test.

2 Q. What are some causes for delayed ejaculation?

3 A. There are many causes. Some of the causes are neurologic.

4 So in the same way that premature is caused by an abundance of

5 dopamine oxytocin, the abundance of serotonin or GABAergic

6 neurotransmitters can lead to suppression and that can

7 sometimes be caused by medications that patients are taking.

8 Other reasons that one can have delayed ejaculation,

9 if there is a spinal cord injury, then that can lead to a

10 delay. Or if the nerves that are responsible for sensing the

11 sensation of touch to the penis are affected through a scar

12 tissue condition called Peyronie's or from a surgery that would

13 affect their transmission, then the signal will not go from the

14 penis to the spinal cord to stimulate the ejaculatory reflex.

15 Q. Now, would practice masturbating and ejaculating be

16 medically appropriate treatment for delayed ejaculation?

17 A. If their delay is due to anxiety and stress and performance

18 anxiety specifically, then more frequent practice could

19 potentially help.

20 Q. Where should that practice be conducted?

21 A. At home.

22 Q. Would there be a medical reason to conduct that practice in
23 the office?

24 A. No.

25 Q. I'm sorry. In the medical office, to be clear.

1 A. No.

2 Q. Is it ever medically appropriate for a urologist to assist
3 the patient in practicing masturbating and ejaculating for the
4 purpose of treating of delayed ejaculation?

5 A. Not for that purpose.

6 Q. Is it ever medically appropriate for a urologist to use a
7 device such as a penile vibrator to help a patient with delayed
8 ejaculation to achieve ejaculation?

9 A. Yes.

10 Q. What are those circumstances?

11 A. In some cases, men who have diminished nerve sensation, by
12 using the penile vibrator, they can have increased signal.
13 They can stimulate more of the nerves and get a stronger signal
14 to go back to the spinal cord, so we can teach the patients how
15 to use that so they can do that at home.

16 MS. QIAN: Mr. Glogoff, can you please pull up on the
17 screen for the parties, the witness, and the Court only what's
18 been marked for identification as Government Exhibit 501 and
19 502 side by side.

20 Q. Dr. Herati, do you recognize the items depicted in these
21 images?

22 A. Yes.

23 Q. What are they?

24 A. So on the left hand, that's the Ferticare 2.0. That's a
25 single-paddle penile vibrator. Then on the right side, that's

1 the Viberect, also a penile vibrator, with two paddles.

2 MS. QIAN: The government offers Government Exhibits
3 501 and 502.

4 THE COURT: Any objection?

5 MR. BALDASSARE: No objection.

6 THE COURT: Admitted.

7 (Government Exhibits 501 and 502 received in evidence)

8 MS. QIAN: May we publish?

9 THE COURT: Yes.

10 Q. Dr. Herati, can you explain the scientific basis for how
11 these devices work.

12 A. Sure. The paddle -- if we look at the left picture, the
13 white circle on that is the vibrating paddle. On the ends of
14 the device we can adjust the amplitude and the frequency that
15 that paddle vibrates. We would put the paddle on either the
16 head of the penis or under the head of the penis where the
17 nerves are most dense, and we would dial the device until the
18 patient is capable of reaching climax.

19 Q. Using Government Exhibit 502, how would that device work?

20 A. This is a sandwich model where the two vibrating paddles
21 are placed on the top and bottom of the head of the penis. It
22 stimulates both sets of nerves at the top and bottom surface.

23 Q. Earlier you said that one of the medically appropriate ways
24 for a urologist, reasons for a urologist to use a penile
25 vibrator is to help a patient with diminished nerve sensation,

1 correct?

2 A. Correct.

3 Q. Now, are the patients typically told to use these devices
4 at home by themselves or with the assistance of a doctor?

5 A. What we typically do is, we bring the patient in. If they
6 are not sure how to use the device, where to put the paddle, we
7 will do a teaching. So we will have them come in, show them
8 where the paddle is placed, and then they will continue that
9 practice at home.

10 Q. Can you just explain, what does it mean for a patient to
11 have diminished nerve sensation?

12 A. Diminished nerve sensation can be diagnosed through the
13 biothesiometer. The probe will be placed on the penis, and we
14 would have to increase the signal of vibration to higher
15 amplitudes and higher frequency than what a normal patient
16 would be able to sense.

17 I'm sorry. Let me rephrase that. We would increase
18 the frequency of vibration to a higher level than other parts
19 of their body can assess. If they can assess the frequency at
20 a lower level in their thigh or in their finger, in their penis
21 that would confirm diminished nerve signal.

22 Q. Typically, what population of patients would suffer from
23 diminished nerve sensation?

24 A. Most commonly, patients with Peyronie's Disease.

25 Q. Now, when a doctor is teaching a patient how to use one of

1 these vibrators in the office, is the goal of that particular
2 session to bring the patient to ejaculation?

3 A. No.

4 Q. Are there other circumstances where a doctor may need to
5 use a penile vibrator such as these on a patient in the office
6 in order to bring them to ejaculation?

7 A. Yes.

8 Q. What are those circumstances?

9 A. The circumstances that that would be necessary is for
10 procurement of sperm. So the patient needs to have sperm
11 collected for what's called an assisted reproductive technology
12 where the sperm is transferred to the female partner. Then we
13 will collect the sample on site and then pass it to the lab.

14 Q. Would you use a penile vibrator on anybody who needs to
15 provide a semen sample for the purpose of assisted fertility?

16 A. No. If they can achieve erection and ejaculation on their
17 own without it, then the vibrator will not be necessary.

18 Q. Typically speaking, what types of patients are doctors
19 using the penile vibrators in order to procure a semen sample?

20 A. Most classically, patients with spinal cord injury. They
21 are the group that benefits the most from it. There are some
22 patients who have such strong anxiety and inhibition of the
23 process that the vibrator is necessary to help them overcome
24 the psychological input.

25 Q. For those individuals for whom they have such a strong

1 psychological reasons why they can't bring themselves to
2 ejaculate, is the use of a vibrator in the office still in
3 order to procure a semen sample or for other reasons?

4 A. In those cases it's for semen sample collection.

5 Q. Is the use of a vibratory device, such as one of the
6 vibrators depicted on Government Exhibit 501 and 502, a
7 procedure for which patient consent is necessary?

8 A. Yes.

9 Q. Can you explain how you would go about obtaining consent
10 for such a procedure.

11 A. Sure. So we would explain to them that they are having a
12 penile vibratory stimulation. We would discuss the benefits,
13 which are for the purposes of fertility to procure sperm.

14 There are risks of the procedure that I would describe
15 to a patient. If the paddle has been placed on the skin for
16 too long, it can cause skin breakdown. And also in patients
17 who have spinal cord injury, they can also have what's called
18 autonomic dysreflexia, which is where the nerves that control
19 the tone of the blood vessel and the heart rate can begin to
20 act abnormally, so they can have abnormal heart rates and
21 abnormal blood pressures as a result and side effect of this
22 treatment.

23 Q. You mentioned as one of the risks of the use of a penile
24 vibrator that if used for too long it can cause breakdown of
25 the penile skin?

1 A. Yes.

2 Q. How long is too long, approximately?

3 A. I will limit the use of this to 30 minutes.

4 MS. QIAN: Mr. Glogoff, we take down Government
5 Exhibits 501 and 502. Thank you.

6 Q. Moving away from the use of penile vibrators, could being
7 too tense while masturbating be a cause for delayed
8 ejaculation?

9 A. Yes.

10 Q. Now, is there a medical need to observe how a patient
11 ejaculates in order to determine whether they are too tense to
12 ejaculate?

13 A. No. That is something that is behavioral and something
14 that psychologists or therapists can help work through.

15 Q. Is someone being too tense to ejaculate something that can
16 be observed?

17 A. No.

18 Q. In that event, how would a urologist be able to make a
19 diagnosis of the cause that a patient is being too tense?

20 A. What would suggest anxiety, stress, or being too tense
21 would be if they have abnormal sensation, and they have
22 overwhelming thoughts. If they have pervasive thoughts that
23 are preventing them from being able to reach ejaculation, that
24 would be a patient that would be quote/unquote too tense, and
25 that would be a really good patient to send to sex therapy, to

1 help them center back on the erectile function and the sexual
2 activity so they can reach climax easier.

3 Q. Would it be medically appropriate for a urologist to
4 prescribe psychotropic medication such as Valium or clonazepam
5 to a patient suffering from ejaculatory dysfunction due to
6 psychological reasons?

7 A. We do prescribe some psychotropic medications, but the
8 benzodiazepines to assist, that would not be something a
9 urologist would do.

10 Q. Who would be the appropriate party to do that then?

11 A. We give the patient referral to a sex therapist or a
12 psychologist and let them seek the therapy through them or a
13 psychiatrist.

14 Q. Now, earlier you mentioned that one of the causes for
15 delayed ejaculation can be neurologic in nature?

16 A. Um-hum.

17 Q. Now, would more frequent masturbation practice assist a
18 patient who has neurologic ejaculatory dysfunction?

19 A. No.

20 Q. You also mentioned that another cause for delayed
21 ejaculation could be the presence of scar tissue?

22 A. Correct.

23 Q. Now, would manually masturbating a patient who has
24 scar-tissue-caused delayed ejaculation assist that patient?

25 A. No.

1 Q. I would like to now shift to a third condition. Are you
2 familiar with a condition called Klinefelter Syndrome?

3 A. Yes.

4 Q. Briefly, what is Klinefelter Syndrome?

5 A. Klinefelter's refers to an abnormal number of chromosomes.
6 So there are 23 pairs of chromosomes in everybody. The 23rd
7 pair is what's called the sex chromosome pair. And in a male,
8 a biologic male, they should have one X and one Y chromosome,
9 but with Klinefelter's they have an extra X. They have 47 XXY,
10 or in the 23rd pair they have got two Xs in that pair, so they
11 had a triad of chromosomes.

12 Q. When can Klinefelter Syndrome be diagnosed?

13 A. The diagnosis can be made at any time point in life. It
14 can be picked up when a person is in utero inside their mom's
15 uterus through what's called amniocentesis. It can be picked
16 up early after birth, it can be diagnosed in adolescence, or in
17 early adulthood or later on.

18 Q. What are some typical symptoms of Klinefelter Syndrome?

19 A. When patients are not going through puberty at the expected
20 time or if they are having behavioral disorders, such as
21 attention deficit or inability to concentrate, or they are
22 abnormally lethargic, or they are seemingly disinterested, then
23 that may prompt them to seek evaluation with the pediatrician.
24 That is one avenue that patients can be picked up with
25 Klinefelter's Syndrome.

1 Another avenue is, when patients are older, if they
2 are seeking fertility, if they have an abnormal semen analysis,
3 they will often be examined. If the exam has suggested that
4 they may have Klinefelter's, or if they have complete absence
5 of sperm in their ejaculate, then a test can be run on the
6 blood to see if they have Klinefelter's.

7 Q. Now, are there any physical symptoms that are typically
8 associated with Klinefelter Syndrome?

9 A. The classic description of a person with Klinefelter's is
10 that they have really long arms or what's called a long wing
11 span. They are tall in stature. They will have increased
12 amount of breast tissue called gynecomastia. And on the exam
13 of the genitalia they will have very small testicles.

14 Q. Now, setting aside fertility issues for now, what are some
15 ways a urologist can help Klinefelter patients to manage some
16 of the symptoms that you just described?

17 A. Education and referral.

18 Q. Can you explain.

19 A. Yup. One of the hallmark features of Klinefelter's is that
20 there can be cognitive disorders and behavioral disorders.

21 Helping patients and their families understand what the
22 patients may be at risk for can help motivate them to seek out
23 the appropriate referrals that would help get them in the right
24 path.

25 Q. What are the appropriate treatments for, for example, what

1 you had described as being long arm spans, particularly tall,
2 and large breast tissues, small testes?

3 A. The treatment -- the disorder of Klinefelter affects the
4 man's testicles and specifically their testosterone production.
5 There is no treatment for the long arm span. But if they are
6 low in their testosterone, they can potentially be a candidate
7 for testosterone replacement therapy.

8 Q. How would a urologist test for a patient's testosterone
9 production levels?

10 A. We would send them to the lab and have them get a
11 blood-draw test before 10 a.m.

12 Q. What are some treatments for low testosterone?

13 A. It depends on what the patient's circumstances are. If
14 they are not looking to have kids in the next six to 12 months,
15 then they can undergo testosterone replacement therapy.

16 Q. Now, if a urologist does prescribe testosterone replacement
17 therapy, are there any ongoing obligations when it comes to
18 refills of the testosterone treatment?

19 A. Yes.

20 Q. What are those ongoing obligations?

21 A. So testosterone replacement is a controlled class 3
22 controlled substance. Because of the controlled nature, we
23 have to see the patient every six months, assess them for signs
24 and symptoms and side effects, and also review their benefits
25 from the therapy as well as part of that visit.

1 Q. Typically, what occurs during these follow-up appointments?

2 A. We will assess signs and symptoms of low testosterone
3 levels. So, classically, patients with low testosterone will
4 have low energy, low libido, difficulty maintaining erections,
5 body composition issues, difficulty concentrating. Not always
6 do they have all those, but we will assess for their degree of
7 improvement as a measure of the treatment efficacy.

8 Q. How do you go about assessing the degree of improvement, if
9 any?

10 A. Symptom assessment through history taking, but also we have
11 a validated questionnaire.

12 Q. Are physical exams required as part of the routine
13 follow-up appointments for patients on testosterone therapy?

14 A. Yes.

15 Q. What kind of physical exams?

16 A. One of the side effects of testosterone therapy is they can
17 have elevated blood pressure, so we need to do a vital exam
18 check.

19 One of the other side effect is that the patient can
20 develop acne on their face or their neck or their back, so we
21 will do an examination to see if they have any signs of acne.
22 Gynecomastia can also develop as a reason from the testosterone
23 therapy. So if they have gynecomastia, if we need to examine
24 them, we can examine them in the office.

25 And also if they are over the age of 40, we will also

1 do a rectal exam to assess for the prostate cancer risk.

2 Q. Can you define what gynecomastia means?

3 A. Gynecomastia means abnormal breast tissue tenderness
4 enlargement, but classically enlargement of the breast tissue.

5 Q. Other than the rectal exam that you discussed for patients
6 after the age of 40, are there any other physical exams of the
7 genital region that is routine during these follow-up visits?

8 A. Rarely do we assess the size of the testicles. The
9 testicles will lose size with testosterone therapy, and we will
10 just examine to make sure there are no changes. But the
11 patient will bring forth complaints or concerns that would
12 prompt that exam. But, otherwise, we don't typically do a
13 genitalia exam.

14 Q. Now, would a urologist need to see the patient obtain an
15 erection in order to determine whether the testosterone
16 medication is working?

17 A. No.

18 Q. Are there any scientific reasons why seeing a patient
19 obtain an erection would not help the urologist to determine
20 whether the testosterone medication is working?

21 A. The information that would be relevant to that, the patient
22 will tell us in the history, and everything that we would need
23 would come from the history and validated questionnaires.

24 Q. Would a urologist need to see a patient ejaculate in order
25 to determine whether the testosterone medication is working?

1 A. No.

2 Q. Again, why not?

3 A. Testosterone level has been linked to ejaculatory
4 dysfunction for men who have delayed ejaculation, but the
5 report of the patient being able to ejaculate with the normal
6 latency time would be sufficient for the history taking.

7 Q. Are semen samples required during routine follow-up
8 appointments?

9 A. No.

10 Q. I'm sorry. Did you say no?

11 A. No.

12 Q. Now, earlier we discussed appropriate care for the
13 cognitive symptoms related to Klinefelter Syndrome.

14 What is the standard of care for a urologist as to
15 whether they should be making any cognitive diagnoses that may
16 stem from Klinefelter's?

17 A. We, as urologists, do not have the background and cognitive
18 assessment or cognitive therapy, so the standard would be to
19 refer the patient to a psychologist for that care. At Hopkins
20 we have a psychologist as part of our Klinefelter center who
21 would manage that part.

22 Q. Now, you refer to the Klinefelter center at Johns Hopkins.
23 Are you part of the Klinefelter center?

24 A. I am.

25 Q. Approximately how many Klinefelter patients do you see?

1 A. Approximately one a week.

2 Q. Now, are you aware of any neurologists who may prescribe
3 medications to address patients' cognitive issues on their own?

4 A. I'm not.

5 Q. Can you just repeat that answer?

6 A. No, I'm not aware.

7 Q. Turning your attention now to treating infertility in
8 Klinefelter patients, what is a typical issue encountered by
9 Klinefelter patients that lead to infertility?

10 A. So with Klinefelter Syndrome, the presence of the extra
11 chromosome causes the cells that produce sperm cells to hit a
12 kill switch. So when patients go through puberty, the cells
13 that are the mother cells, called spermatogonia, will go
14 through apoptosis or cell death. And once a patient reaches
15 puberty and the spermatogonia receive the extra signal from the
16 brain to stimulate puberty, the spermatogonia wake up. And
17 when they wake up, they sense the extra chromosome, and gene
18 expression changes will occur that will initiate the program's
19 cell death.

20 MS. QIAN: Your Honor, I notice that it is
21 approximately 5:00 now.

22 THE COURT: Yes. Is this a good time to adjourn?

23 MS. QIAN: I think so, your Honor.

24 MR. BALDASSARE: Judge, one minute before we end for
25 day, if we can go to sidebar.

1 THE COURT: OK.

2 (At sidebar)

3 MR. BALDASSARE: Judge, I normally wouldn't ask this
4 if it wasn't the end of the day on a Friday, but I would ask
5 that you give that instruction, because they are going to be
6 left with this for two days. If I was going to be able to get
7 up and cross him now, I wouldn't ask. If it was the end of his
8 testimony, I probably wouldn't even ask, if it was a regular
9 day, but I think that they have heard a lot of, should he do
10 this, should he not do this, should he do this, should he not
11 do this. It is Friday. We are not coming back until Monday --

12 THE COURT: You just want me to read the same
13 instruction?

14 MR. BALDASSARE: Yes.

15 THE COURT: That's fine.

16 MR. BALDASSARE: Thank you, Judge.

17 (Continued on next page)

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(In open court)

THE COURT: Folks, I am going to send you home momentarily, but I did just want to remind you before you go that you are not required to find what the standard of care is in a urology setting. If you do make such a conclusion, I instruct you that a finding by you that Dr. Paduch deviated from the standard of care is not, standing alone or in and of itself, sufficient to establish any element of the charged offense. If you find that the government has provided sufficient evidence of a standard of care and that Dr. Paduch deviated from it, you may consider that evidence as relevant to the defendant's intent or other elements of the charged offenses.

With that, I am going to send you home. I am just going to remind you not to do any research at all, not to talk about the case with anyone, and keep an open mind and enjoy the weekend. Thank you.

We will be starting again at 10:00 on Monday, so please be here at 9:45. Thank so much, and be well.

(Jury not present)

THE COURT: Just a couple quick things.

Number one, on the *Touhy* issue, if the government is going to have an objection to calling Special Agent Turansky, I would like a letter in response, and in particular I would like you to address -- there is a case, *United States v. Bahamonde*.

1 It is 445 F.3d 1225. It's from the Ninth Circuit. But I just
2 want you to address the Court's conclusion therein.

3 MS. QIAN: Your Honor, I can just talk about it now.
4 We can resolve this short of a letter.

5 THE COURT: Perfect. Even better. Thank you.

6 MS. QIAN: Thank you, your Honor.

7 As I recall, the way this came up yesterday was that
8 at the end of the day I think defense counsel expressed some
9 confusion as to whether or not there was any expectation that
10 the government would call FBI agent Stacy Turansky. I think we
11 made clear that, given the state of how we produced 3500 in
12 this case, that there was no reasonable expectation that we
13 would have called Agent Turansky.

14 Later that evening, we did receive from defense
15 counsel a *Touhy* notice, as well as several Rule 17(c)
16 subpoenas. Even though we were, I think, improperly served, we
17 are not the agents of the FBI who can properly receive service,
18 nonetheless, we received the *Touhy* notice and the subpoenas.
19 We did forward them to the FBI agents in question.

20 And my understanding, from speaking to the case
21 agents, is that the FBI will not be objecting to calling -- not
22 be objecting under *Touhy* grounds to calling the case agents or
23 FA agents as witnesses in this case.

24 THE COURT: Great.

25 MS. QIAN: That is correct, your Honor.

1 I will note just a couple of things just to put on the
2 record, given the record that was established yesterday.

3 I understand that defense counsel had made a
4 representation that he thought that the government had done
5 something, quote, unwise and that he was able to pull out 10
6 examples of circumstances where the government had meetings
7 with witnesses without the presence of any FBI agent or
8 paralegal to act as a witness.

9 We have now gone through all of our 3500. We have
10 noticed two instances of notes that were produced to defense
11 counsel as 3500 where there was no one other than lawyers
12 present during those conversations.

13 One of them was a pair of notes for one of the
14 government's witnesses, Dr. Rocchio, but those notes were taken
15 for a different case. Those were not notes that are prepared
16 for their presentation of this trial, for the preparation of
17 this trial. It was for a different trial years ago. We
18 produced it out of abundance of caution just because we have
19 possession of it.

20 The second notes were a conversation between
21 government attorneys and, I think, other attorneys. It's
22 attorney-only notes. So there were no witnesses because it was
23 in fact not an interview --

24 THE COURT: Was the other attorney representing what
25 his or her client had said?

1 MS. QIAN: It was not. It was regarding logistics,
2 your Honor.

3 THE COURT: You're on notice.

4 MR. BALDASSARE: Yes.

5 Judge, there was one -- I didn't have a complaint
6 about this. There was, I think, one where after an interview
7 with one of the former patients, I think one of the civil
8 attorneys did call the government, and I got that.

9 One of the things I was referring to yesterday that is
10 more than the two -- I think I have one or two more than
11 that -- was, it was news to me that the Southern District
12 thinks I can, and they have said that I can, that I could call
13 a paralegal.

14 So I was not counting those as -- I was counting those
15 as only government people. I would never think that I could
16 call a paralegal who didn't author notes and say, do you
17 remember being there? Was this said? Frankly, at this point I
18 am not sure it is going to be an issue.

19 Yet again, wise or unwise, I wasn't ever saying that I
20 thought they were lying or not putting names on. It's just a
21 completely different way. I never in a million years would
22 think to call a paralegal specialist to talk about what
23 happened during an interview and to have notes that they didn't
24 take.

25 It sounds at this point, Judge, I think the issue is

1 resolved.

2 I have one thing to put on when the government is
3 done.

4 THE COURT: It sounds like it, and I am glad that you
5 are working together to avoid unnecessary issues, so I
6 appreciate that.

7 MS. QIAN: Thank you, your Honor.

8 THE COURT: I wanted to say one quick thing just about
9 scheduling, which is that there are a few days where we need to
10 either start a little late or end a little early.

11 Let me see if I can get my calendar up.

12 On Monday, we are going to have the standard day.

13 On Tuesday, I may have to adjourn early, about an hour
14 and a half early, like at 3:30. I'll let you know that by
15 Monday.

16 If we do, what I plan to do, so we don't lose time, is
17 have a truncated day where we don't have as many breaks. We
18 will have a shorter lunch, and we won't lose too much time. I
19 just wanted to give you a heads-up that I'll let you know on
20 Monday if we are going to end early on Tuesday.

21 Then, on Friday, the 3rd, I need to start at 11. You
22 may recall juror number 1 may have a potential conflict on
23 Friday, but we are going to find out about that. Ms. Cavale
24 has asked him to keep her posted. I'll keep you posted about
25 that. We will decide what to do with juror 1.

1 But with respect to starting an hour late, then we
2 wouldn't take the morning break, and, again, I'll try to take a
3 shorter lunch, so we won't lose much time.

4 On Monday, the 6th, I'll need to start at 10:30. If
5 there are any issues, let me know, and hopefully we can discuss
6 them in the lunch break so we don't lose any more time. But I
7 think that, again, we will try and take shorter breaks and the
8 like.

9 Then, on May 9, we will need to start at 11, and I
10 know you need to end at 3. So I thought with that time we
11 would just take one half-an-hour break in the middle of the day
12 and no other breaks.

13 Then I think we need to see what's going to happen on
14 the 10th. I think I had already told you that -- I just have a
15 lot of different sentencings. There are some things that are
16 harder to move than others. So unless the jury is
17 deliberating, or there are other real scheduling issues, I
18 would prefer not to sit on Friday just because I have so many
19 things scheduled that I have to adjourn. That being said, if
20 we need to sit on Friday, the 10th, I will. We just may need
21 to start a little bit late, around 10:30 or 10:45 or something,
22 but I'll work with you.

23 I just wanted to give you a heads-up. That's just
24 some scheduling issues I wanted to let you know.

25 MR. BALDASSARE: I just have one thing, Judge.

1 It's not particularly directed at the government, and
2 I let it go at the time because the witness was here and I
3 wanted to keep the case moving along.

4 The government, I understand, put on the record PCVA's
5 standing objection.

6 Here is what I am going to say about that.

7 Number one, I don't accept it. PCVA has no standing
8 there. This isn't a civil case. They don't intervene. They
9 don't get to tell the government to try to say things about my
10 cross-examination. I think I have been extraordinarily
11 courteous to these former patients, even in filings, where I
12 could have named people, because they are not using aliases. I
13 think that I was very careful when I did that. I was the one
14 who stopped the first former patient from testifying.

15 I think if your Honor thinks I'm running afoul -- I
16 don't want to stand here and set a precedent where the
17 government can put any objections by the civil law firms on the
18 record. If they want to send something in, send something in.

19 The jury is not here, Judge, so I can say this,
20 respectfully, and I don't mean to sound upset, but I am, and
21 I'm certainly not upset at you, and I'm certainly upset at the
22 government.

23 You know what's at stake. PCVA should stay in its
24 lane. I can defend my client. I know how to cross-examine
25 someone. I don't ever, respectfully, want to hear again

1 anything about PCVA. I know what I'm doing, I've been doing
2 it, and I think it is inappropriate, and I don't think the
3 government should be standing up and saying, I want a note.
4 And I don't fault Ms. Qian, but I don't want to keep hearing,
5 I'm putting PCVA's standing objection on.

6 The Court, I think, knows, I know what I'm doing, and
7 I've been careful.

8 THE COURT: It didn't affect anything. They rightly
9 mentioned it outside the hearing of the jury. As you know, it
10 hasn't affected any of my rulings. I don't fault the
11 government at all for mentioning it, and we will just leave it
12 at that. I don't think we need to talk about it further.

13 MR. BALDASSARE: Thank you, Judge.

14 THE COURT: Have a good weekend, all.

15 (Adjourned to April 29, 2024 at 9:45 a.m.)
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19
20
21
22
23
24
25

INDEX OF EXAMINATION

| Examination of: | Page |
|-----------------------------------|------|
| SAM LENOX | |
| Direct By Mr. Xiang | 155 |
| Cross By Mr. Baldassare | 198 |
| Redirect By Mr. Xiang | 259 |
| MICHAEL BUSCEMI | |
| Direct By Ms. Espinosa | 262 |
| Cross By Mr. Baldassare | 269 |
| AMIN HERATI | |
| Direct By Ms. Qian | 272 |

GOVERNMENT EXHIBITS

| Exhibit No. | Received |
|-----------------------|----------|
| 401 | 161 |
| GX 503-511 | 266 |
| 3 | 297 |
| 501 and 502 | 339 |

DEFENDANT EXHIBITS

| Exhibit No. | Received |
|---------------|----------|
| 301 | 208 |